

51-2a-101. Title.

This chapter is known as the "Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act."

Enacted by Chapter 206, 2004 General Session

51-2a-102. Definitions.

As used in this chapter:

- (1) "Accounting reports" means an audit, a review, a compilation, or a fiscal report.
- (2) "Audit" means an examination that:
 - (a) analyzes the accounts of all officers of the entity having responsibility for the care, management, collection, or disbursement of money belonging to it or appropriated by law or otherwise acquired for its use or benefit;
 - (b) is performed in accordance with generally accepted government auditing standards, or for nonprofit corporations described in Subsection (6)(f), in accordance with generally accepted auditing standards; and
 - (c) conforms to the uniform classification of accounts established or approved by the state auditor or any other classification of accounts established by any federal government agency.
- (3) "Audit report" means:
 - (a) the financial statements presented in conformity with generally accepted accounting principles;
 - (b) the auditor's opinion on the financial statements;
 - (c) a statement by the auditor expressing positive assurance of compliance with state fiscal laws identified by the state auditor;
 - (d) a copy of the auditor's letter to management that identifies any material weakness in internal controls discovered by the auditor and other financial issues related to the expenditure of funds received from federal, state, or local governments to be considered by management; and
 - (e) management's response to the specific recommendations.
- (4) "Compilation" means information presented in the form of financial statements presented in conformity with generally accepted accounting principles that are the representation of management without the accountant undertaking to express any assurances on the statements.
- (5) "Fiscal report" means providing information detailing revenues and expenditures of all funds using forms provided by the state auditor.
- (6) "Governing board" means:
 - (a) the governing board of each political subdivision;
 - (b) the governing board of each interlocal organization having the power to tax or to expend public funds;
 - (c) the governing board of any local mental health authority established under the authority of Title 62A, Chapter 15, Substance Abuse and Mental Health Act;
 - (d) the governing board of any substance abuse authority established under the authority of Title 62A, Chapter 15, Substance Abuse and Mental Health Act;
 - (e) the governing board of any area agency established under the authority of

Title 62A, Chapter 3, Aging and Adult Services;

- (f) the governing board of any nonprofit corporation that receives:
 - (i) at least 50% of its funds from federal, state, and local government entities through contracts; or
 - (ii) an amount from state entities that is equal to or exceeds the amount specified in Subsection 51-2a-201(1) that would require an audit to be made by a competent certified public accountant;
 - (g) the governing board of any other entity established by a local governmental unit that receives tax exempt status for bonding or taxing purposes; and
 - (h) in municipalities organized under an optional form of municipal government, the municipal legislative body.
- (7) "Review" means performing inquiry and analytical procedures that provide the accountant with a reasonable basis for expressing limited assurance that there are no material modifications that should be made to the financial statements for them to be in conformity with generally accepted accounting principles.
- (8) "State entity" means a department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

Amended by Chapter 341, 2014 General Session

51-2a-201. Accounting reports required.

- (1) The governing board of an entity whose revenues or expenditures of all funds is \$500,000 or more shall cause an audit to be made of its accounts by a competent certified public accountant.
- (2) The governing board of an entity whose revenues or expenditures of all funds is less than \$500,000 shall cause a financial report to be made in the manner prescribed by the state auditor.

Amended by Chapter 162, 2013 General Session

51-2a-202. Reporting requirements.

- (1) The governing board of each entity required to have an audit, review, compilation, or fiscal report shall ensure that the audit, review, compilation, or fiscal report is:
- (a) made at least annually; and
 - (b) filed with the state auditor within six months of the close of the fiscal year of the entity.
- (2) If the political subdivision, interlocal organization, or other local entity receives federal funding, the audit, review, or compilation shall be performed in accordance with both federal and state auditing requirements.

Enacted by Chapter 206, 2004 General Session

51-2a-203. Audit reports -- Preservation.

- (1) The governing body of each political subdivision and each interlocal

organization or other local entity required to submit an accounting report shall:

- (a) file and preserve all accounting reports; and
 - (b) file copies of all accounting reports with the state auditor.
- (2) Copies of the accounting reports are open to inspection during regular office hours by any interested persons, where the accounting reports are filed.
- (3) The state auditor shall have access to all accounting report work papers created under this chapter.

Enacted by Chapter 206, 2004 General Session

51-2a-204. Grants to nonprofit corporations -- Reporting to the state auditor.

(1) A state entity that grants money to a nonprofit corporation shall enter into a written agreement with the nonprofit corporation that requires the nonprofit corporation to:

- (a) disclose whether:
 - (i) it met or exceeded the requirements listed in Subsection 51-2a-102(6)(f) in the previous fiscal year of the nonprofit corporation; and
 - (ii) it anticipates meeting or exceeding the requirements listed in Subsection 51-2a-102(6)(f) in the fiscal year the grant is issued; and
- (b) comply with the requirements of Title 63J, Chapter 9, Nonprofit Entity Receipt of State Money Act.

(2) If the nonprofit corporation discloses to the state entity that it meets or exceeds the requirements listed in Subsection 51-2a-102(6)(f) as described in Subsection (1), the state entity shall notify the state auditor.

Enacted by Chapter 341, 2014 General Session

51-2a-301. State auditor responsibilities.

(1) Except for political subdivisions that do not receive or expend public funds, the state auditor shall adopt guidelines, qualifications criteria, and procurement procedures for use in the procurement of audit services for all entities that are required by Section 51-2a-201 to cause an accounting report to be made.

(2) The state auditor shall follow the notice, hearing, and publication requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) The state auditor shall:

- (a) review the accounting report submitted to him under Section 51-2a-201; and
- (b) if necessary, conduct additional inquiries or examinations of financial statements of the entity submitting that information.

(4) The governing board of each entity required by Section 51-2a-201 to submit an accounting report to the state auditor's office shall comply with the guidelines, criteria, and procedures established by the state auditor.

(5) Each fifth year, the state auditor shall:

- (a) review the dollar criteria established in Section 51-2a-201 to determine if they need to be increased or decreased; and
- (b) if the auditor determines that they need to be increased or decreased, notify

the Legislature of that need.

(6) (a) The state auditor may require a higher level of accounting report than is required under Section 51-2a-201.

(b) The state auditor shall:

(i) develop criteria under which a higher level of accounting report may be required; and

(ii) provide copies of those criteria to entities required to analyze and report under Section 51-2a-201.

Amended by Chapter 382, 2008 General Session

51-2a-401. Withholding allocated state funds from an entity that does not comply with the accounting report requirements.

(1) The state auditor shall withhold allocated state funds sufficient to pay the cost of the accounting report from any political subdivision, interlocal organization, or other local entity that does not comply with the accounting report requirements of Section 51-2a-201.

(2) (a) If no allocated state funds are available for withholding, the local entity shall reimburse the state auditor for any cost incurred in completing the accounting reports required under Section 51-2a-402.

(b) The state auditor shall release the withheld funds when the accounting report requirements are met either voluntarily or by action under Section 51-2a-402.

Enacted by Chapter 206, 2004 General Session

51-2a-402. Accounting reports of entity not complying with the report requirements.

(1) The state auditor shall make, or shall cause an accounting report to be made, of any entity that does not comply with the accounting report requirements as provided in Title 51, Chapter 2a, Part 2, Accounting Reports.

(2) The state auditor shall contract with a licensed certified public accountant to complete the accounting report.

Enacted by Chapter 206, 2004 General Session

51-2a-403. General Fund reimbursed for accounting report of nonappropriated activities -- Amount of reimbursement.

(1) The General Fund shall be reimbursed by the entity for which an audit, review, or compilation are in whole or in part performed, whenever the state auditor or legislative auditor general is required by law or constitutional provision to perform that audit, review, or compilation or cause that audit, review, or compilation to be made for any office, department, division, board, agency, commission, council, authority, institution, hospital, school, college, university, or other instrumentality of the state or any of its political subdivisions for nonappropriated activities including associated students' accounts, auxiliary enterprise funds, nonprofit corporations, contracts with the federal government, federal grants-in-aid, and federal assistance programs.

- (2) (a) The reimbursement amount shall be a pro rata share of that auditor's total cost, based upon a time-spent factor.
- (b) An audit includes an audit of state-appropriated funds.
- (i) If state-appropriated funds are not involved in the accounting report, the reimbursement may not be less than the average hourly cost of the operations of that auditor's office nor more than the average rate attainable from certified public accounting firms performing similar services for this state.
- (ii) Reimbursement charges may be negotiated with that auditor's office within these limitations.

Enacted by Chapter 206, 2004 General Session

51-4-1. Deposits by state officers, boards, commissions, institutions, departments, divisions, agencies, and similar instrumentalities.

- (1) As used in this section, "agency" means each officer, board, commission, institution, department, division, agency, and other similar instrumentality of the state of Utah.
- (2) Except as provided under Section 53B-7-601, or through the receipt of a written variance from the state treasurer, each agency shall deposit daily, if practicable, but no later than once every three banking days, all collections of state money and other public funds with:
- (a) the state treasurer; or
- (b) a qualified depository for the credit of the state.
- (3) The state treasurer may make policies governing the reporting and remitting of these funds.

Amended by Chapter 388, 2013 General Session

51-4-2. Deposits by political subdivisions.

- (1) As used in this section:
- (a) "Officer" means each:
- (i) county treasurer, county auditor, county assessor, county clerk, clerk of the district court, city treasurer, city clerk, justice court judge; and
- (ii) other officer of a political subdivision.
- (b) "Political subdivision" means a county, city, town, school district, local district, and special service district.
- (2) (a) Each officer shall deposit all public funds daily whenever practicable but not later than three days after receipt.
- (b) Each officer shall deposit all public funds only in qualified depositories unless the public funds need to be deposited in a bank outside Utah in order to provide for:
- (i) payment of maturing bonds or other evidences of indebtedness; or
- (ii) payment of the interest on bonds or other evidences of indebtedness.
- (3) (a) (i) Each officer shall require all checks to be made payable to the office of the officer receiving funds or to the political subdivision's treasurer.
- (ii) An officer may not accept a check unless it is made payable to the office of the officer receiving funds or to the political subdivision's treasurer.

(b) Each officer shall deposit all money he collects into an account controlled by his political subdivision's treasurer.

(4) (a) Except as provided in Subsection (4)(b) and unless a shorter time for depositing funds is otherwise required by law, each political subdivision that has collected funds that are due to the state or to another political subdivision of the state shall, on or before the tenth day of each month, pay all of those funds that were receipted during the last month:

- (i) to a qualified depository for the credit of the appropriate public treasurer; or
- (ii) to the appropriate public treasurer.

(b) Property tax collections shall be apportioned and paid according to Section 59-2-1365.

Amended by Chapter 329, 2007 General Session

51-5-1. Short title.

This chapter is known as the "Funds Consolidation Act."

Amended by Chapter 4, 1993 General Session

51-5-2. Legislative policy -- General requirements.

(1) Each administrative unit of state government shall comply with this chapter, which establishes the state's fiscal procedures for state government funds.

(2) Except when in conflict with constitutional and statutory provisions, each administrative unit of state government shall apply generally accepted accounting principles and fiscal procedures.

(3) The Legislature may establish funds in addition to those required by the Constitution.

(4) Federal grants and other revenues, which must remain restricted according to the terms under which they are received, are governed by the specific provisions in this chapter.

(5) The Division of Finance shall establish procedures applicable to the administration and collection of taxes, licenses, fees, and all other forms of revenue to allow them to be credited directly into the funds for which they are designated.

(6) The Division of Finance and each administrative unit of state government shall account for general government revenues and functions in the governmental funds.

(7) The Legislature shall review all general governmental programs and functions, regardless of the sources of revenue available to the various departments, institutions, or agencies.

Amended by Chapter 14, 1991 General Session

51-5-3. Definitions.

As used in this chapter:

(1) "Account groups" means a self-balancing set of accounts used to establish accounting control and accountability for the state's general fixed assets and general

long-term obligations.

(2) "Accrual basis" means the basis of accounting under which revenues are recorded when earned and expenditures are recorded when they result in liabilities for benefits received, even though the receipt of the revenue or payment of the expenditures may take place, in whole or in part, in another accounting period.

(3) "Activity" means a specific and distinguishable line of work performed by one or more organizational components of a governmental unit to accomplish a function for which the governmental unit is responsible.

(4) "Appropriation" means a legislative authorization to make expenditures and to incur obligations for specific purposes.

(5) "Budgetary accounts" means those accounts necessary to reflect budgetary operations and conditions, such as estimated revenues, appropriations, and encumbrances.

(6) "Cash basis" means the basis of accounting under which revenues are recorded when received in cash and expenditures are recorded when paid.

(7) "Dedicated credit" means:

(a) revenue that is required by law or by the contractual terms under which the revenue is accepted, to be expended for specified activities; and

(b) revenue that is appropriated by provisions of law to the department, institution, or agency that assessed the revenue, to be expended for the specified activities.

(8) "Encumbrances" means obligations in the form of purchase orders, contracts, or salary commitments that are chargeable to an appropriation and for which a part of the appropriation is reserved. Encumbrances cease when paid or when the actual liability is set up.

(9) (a) "Expenditures" means decreases in net financial resources from other than interfund transfers, refundings of general long-term capital debt, and other items indicated by GASB.

(b) "Expenditures" may include current operating expenses, debt service, capital outlays, employee benefits, earned entitlements, and shared revenues.

(10) (a) "Financial resources" means assets that are obtained or controlled as a result of past transactions or events that in the normal course of operations will become cash.

(b) "Financial resources" includes cash, claims to cash such as taxes receivable, and claims to goods or services such as prepaids.

(11) "Fiscal period" means any period at the end of which a governmental unit determines its financial position and the results of its operations.

(12) "Function" means a group of related activities aimed at accomplishing a major service or regulatory program for which a governmental unit is responsible.

(13) "Fund" means an independent fiscal and accounting entity with a self-balancing set of accounts, composed of financial resources and other assets, all related liabilities and residual equities or balances and changes in those resources, assets, liabilities, and equities that, when recorded, are segregated for the purpose of carrying on specific activities or attaining certain objectives, according to special regulations, restrictions, or limitations.

(14) "Fund accounts" means all accounts necessary to set forth the financial

operations and financial position of a fund.

(15) "GASB" means the Governmental Accounting Standards Board that is responsible for accounting standards used by public entities.

(16) (a) "Governmental fund" means funds used to account for the acquisition, use, and balances of expendable financial resources and related liabilities using a measurement focus that emphasizes the flow of financial resources.

(b) "Governmental fund" includes the following types: General Fund, special revenue funds, debt service funds, capital projects funds, and permanent funds.

(17) "Lapse," as applied to appropriations, means the automatic termination of an unexpended appropriation.

(18) "Liabilities" are the probable future sacrifices of economic benefits, arising from present obligations of a particular entity to transfer assets or provide services to other entities in the future.

(19) "Net financial resources" means:

(a) the difference between the amount of a governmental fund's financial resources and liabilities; and

(b) the fund balance of a governmental fund.

(20) "Postemployment" means that period of time following:

(a) the last day worked by an employee as a result of his long-term disability; or

(b) the date that an employee identifies as the date on which the employee intends to retire or terminate from state employment.

(21) "Postemployment benefits" means benefits earned by employees that will not be paid until postemployment, including unused vacation leave, unused converted sick leave, sick leave payments, and health and life insurance benefits as provided in Section 67-19-14.

(22) "Proprietary funds" means those funds or subfunds that show actual financial position and the results of operations, such as actual assets, liabilities, reserves, fund balances, revenues, and expenses.

(23) "Restricted revenue" means revenue that is required by law to be expended only:

(a) for specified activities; and

(b) to the amount of the legislative appropriation.

(24) "Revenue" means the increase in ownership equity during a designated period of time that is recognized as earned.

(25) "Subfund" means a restricted account, established within an independent fund, that has a self-balancing set of accounts to restrict revenues, expenditures, or the fund balance.

(26) "Surplus" means the excess of the assets of a fund over its liabilities and restricted fund equity.

(27) "Unappropriated surplus" means that portion of the surplus of a given fund that is not segregated for specific purposes.

(28) "Unrestricted revenue" means revenue of a fund that may be expended by legislative appropriation for functions authorized in the provisions of law that establish each fund.

Amended by Chapter 175, 2001 General Session

51-5-4. Funds established -- Titles of funds -- Fund functions.

(1) (a) (i) The funds enumerated in this section are established as major fund types.

(ii) All resources and financial transactions of Utah state government shall be accounted for within one of these major fund types.

(b) (i) All funds or subfunds shall be consolidated into one of the state's major fund types.

(ii) Where a specific statute requires that a fund or account be established, that fund or account shall be accounted for as an individual fund, subfund, or account within the major fund type to meet generally accepted accounting principles.

(iii) Existing and new activities of state government authorized by the Legislature shall be accounted for within the framework of the major fund types established in this section.

(c) The Division of Finance shall determine the accounting classification that complies with generally accepted accounting principles for all funds, subfunds, or accounts created by the Legislature.

(d) (i) Major fund types shall be added by amending this chapter.

(ii) Whenever a new act creates or establishes a fund, subfund, or account without amending this chapter, the reference to a fund, subfund, or account in the new act shall be classified within one of the major fund types established by this section.

(2) Major Fund Type Titles:

(a) General Fund;

(b) Special Revenue Funds;

(c) Capital Projects Funds;

(d) Debt Service Funds;

(e) Permanent Funds;

(f) Enterprise Funds;

(g) Internal Service Funds;

(h) Trust and Agency Funds; and

(i) Discrete Component Unit Funds.

(3) The General Fund shall receive all revenues and account for all expenditures not otherwise provided for by law in any other fund.

(4) Special Revenue Funds are used to account for and report proceeds of specific revenue sources that are restricted or committed to be expended for a specified purpose.

(a) The Education Fund is a Special Revenue Fund that:

(i) receives all revenues from taxes on intangible property or from a tax on income; and

(ii) is designated for public and higher education.

(b) The Transportation Fund is a Special Revenue Fund that accounts for all revenues that are required by law to be expended for highway purposes.

(c) (i) An Expendable Special Revenue Fund is a Special Revenue Fund created by legislation or contractual relationship with parties external to the state that:

(A) identifies specific revenues collected from fees, taxes, dedicated credits, donations, federal funds, or other sources;

(B) defines the use of the money in the fund for a specific function of

government or program within an agency; and

(C) delegates spending authority or authorization to use the fund's assets to a governing board, administrative department, or other officials as defined in the enabling legislation or contract establishing the fund.

(ii) An Expendable Special Revenue Fund may only be created by contractual relationship with external parties when the sources of revenue for the fund are donated revenues or federal revenues.

(iii) Expendable Special Revenue Funds are subject to annual legislative review by the appropriate legislative appropriations subcommittee.

(5) (a) Capital Projects Funds account for financial resources to be expended for the acquisition or construction of capital outlays, including the acquisition or construction of a capital facility and other capital assets. Capital Projects Funds exclude those types of capital-related outflows financed by proprietary funds or for assets that will be held in trust for individuals, private organizations, or other governments.

(b) The Transportation Investment Fund of 2005 is a Capital Projects Fund that accounts for revenues that are required by law to be expended for the maintenance, construction, reconstruction, or renovation of certain state and federal highways.

(6) Debt Service Funds account for the accumulation of resources for, and the payment of, the principal and interest on general long-term obligations.

(7) Permanent Funds account for assets that are legally restricted to the extent that only earnings, and not principal, may be used for a specific purpose.

(8) Enterprise Funds are designated to account for the following:

(a) operations, financed and operated in a manner similar to private business enterprises, where the Legislature intends that the costs of providing goods or services to the public are financed or recovered primarily through user charges;

(b) operations where the Legislature requires periodic determination of revenues earned, expenses incurred, and net income;

(c) operations for which a fee is charged to external users for goods or services; or

(d) operations that are financed with debt that is secured solely by a pledge of the net revenues from fees and charges of the operations.

(9) Internal Service Funds account for the financing of goods or services provided by one department, division, or agency to other departments, divisions, or agencies of the state, or to other governmental units, on a cost-reimbursement basis.

(10) (a) Trust and Agency Funds account for assets held by the state as trustee or agent for individuals, private organizations, or other governmental units.

(b) Pension Trust Funds, Investment Trust Funds, Private-Purpose Trust Funds, and Agency Funds are Trust and Agency Funds.

(11) Discrete Component Unit Funds account for the financial resources used to operate the state's colleges and universities and other discrete component units.

Amended by Chapter 400, 2013 General Session

51-5-4.5. Housing Corporation exempt.

The Utah Housing Corporation is exempt from this chapter.

Amended by Chapter 71, 2005 General Session

51-5-5. Authority to establish funds or subfunds.

The Division of Finance shall, when necessary, establish funds or subfunds, including budgetary and proprietary accounting funds or subfunds within the framework of the major fund types established by this chapter.

Amended by Chapter 154, 1986 General Session

51-5-6. Accounting principles and specific accounting and financial reporting procedures.

- (1) The Division of Finance shall:
 - (a) use generally accepted accounting principles applicable to governmental units in:
 - (i) its accounting procedures; and
 - (ii) its reports of the state's financial position and results of operations in each fiscal period; and
 - (b) note any deviation for budget purposes in the state's financial statements.
- (2) Unless otherwise required by generally accepted accounting principles, the following specific procedures shall be implemented:
 - (a) The Division of Finance shall use the basis of accounting established by GASB for financial reporting of each fund type.
 - (b) The Division of Finance shall:
 - (i) calculate the liabilities associated with postemployment benefits by applying:
 - (A) GASB standards as they become available; or
 - (B) appropriate standards available for private business if GASB standards are not available;
 - (ii) recognize all liabilities associated with postemployment benefits in a separate fund for budget purposes and in the General Fund or other funds as required by GASB for reporting purposes;
 - (iii) provide for an ongoing labor additive beginning in the budget request for fiscal year 1995 to charge all federal, state, or other programs at a rate sufficient to cover the annual change in the postemployment benefits liabilities of the separate budget fund; and
 - (iv) provide for ongoing payments against the postemployment liabilities budget fund as employees qualify for receiving the postemployment benefits.
 - (c) The Division of Finance shall post receipts of revenues and other resources of each fund when collected directly to the fund designated to receive them.
 - (d) The Division of Finance shall use budgetary accounts to:
 - (i) account for budgetary funds to the extent necessary to reflect the budget position and budget operations; and
 - (ii) account for the remaining funds when administrative expenses of the remaining funds are subject to appropriations, in order to fully reflect the various budgetary commitments as provided by law.

(e) The Division of Finance shall prepare statements of revenues and expenditures in a form that accurately reflects the results of operations for a particular fiscal period.

(f) The Division of Finance shall determine:

(i) all costs associated with all internal service funds that are eligible for federal reimbursement; and

(ii) all costs that are required to be included in the funds to comply with generally accepted accounting principles.

(g) (i) All costs currently borne by a fund or an account that is not an internal service fund that should be allocated to an internal service fund may be charged as an expense to the internal service fund, paid to the fund bearing the costs, and recorded as interfund revenue in that fund.

(ii) The Division of Finance may transfer the interfund revenue recorded in funds or accounts that are not internal service funds to the internal service fund as contributed working capital.

(h) The Division of Finance shall record revenue in the various funds and accounts in accordance with generally accepted accounting principles.

(i) (i) The Division of Finance and each administrative unit of state government shall record accrued revenue net of any liabilities for revenue refunds as required by Division of Finance policy.

(ii) Accrued revenue may be used to offset postemployment benefit liabilities and other liabilities of the state.

Amended by Chapter 85, 1993 General Session
Amended by Chapter 128, 1993 General Session
Amended by Chapter 212, 1993 General Session

51-5-7. Revenues and other resources of governmental funds subject to legislative review and appropriation.

The revenues and other resources of the governmental funds are subject to legislative review and appropriation for each fiscal period.

Amended by Chapter 430, 2014 General Session

51-5-8. Construction of terms and provisions relating to funds in other statutes.

(1) Direct or indirect references to the word "fund," or any other synonymous word contained in the Utah Code Annotated 1953, that is used to identify a separate accounting entity, means a fund account or subfund except where that fund meets the definition of a major fund type according to generally accepted accounting principles.

(2) The following terms and all other terms similar in meaning, except when they meet the definition of a fund in accordance with generally accepted accounting principles, mean a subfund or account within the funds established by this chapter: "special funds"; "separate funds"; "departmental funds"; "association funds"; "trust," such as "in trust" or "held in trust"; "deposits," such as "security deposits" or "certificates of deposit"; "reserves," such as "special reserves," "contingent reserves," and "reserve

funds"; "accounts," such as "special accounts" or "clearing accounts"; and "collections," such as "departmental collections" or "dedicated credits."

(3) Provisions of law governing the assessment and collection of the state's various taxes, licenses, permits, fees, and other charges and provisions controlling the expenditures of those revenues remain in force and are undisturbed by the provisions of this chapter.

(4) Provisions of law that specify that the balance in a fund reverts or is closed out to another fund means that the balance in that fund reverts to the unappropriated surplus account of the governmental fund in which that fund is placed.

(5) Provisions of law that specify that the balance in a fund does not lapse or otherwise become part of the state General Fund means that the balance in that fund does not lapse or otherwise become part of the unappropriated surplus account of the fund in which that fund is placed.

Amended by Chapter 175, 2001 General Session

51-7-1. Short title of chapter.

This chapter shall be known and may be cited as the "State Money Management Act."

Amended by Chapter 285, 1992 General Session

51-7-2. Exemptions from chapter.

The following funds are exempt from this chapter:

(1) funds invested in accordance with the participating employees' designation or direction pursuant to a public employees' deferred compensation plan established and operated in compliance with Section 457 of the Internal Revenue Code of 1986, as amended;

(2) funds of the Workers' Compensation Fund;

(3) funds of the Utah State Retirement Board;

(4) funds of the Utah Housing Corporation;

(5) endowment funds of higher education institutions;

(6) permanent and other land grant trust funds established pursuant to the Utah Enabling Act and the Utah Constitution;

(7) the State Post-Retirement Benefits Trust Fund;

(8) the funds of the Utah Educational Savings Plan; and

(9) funds of the permanent state trust fund created by and operated under Utah Constitution, Article XXII, Section 4.

Amended by Chapter 211, 2013 General Session

51-7-3. Definitions.

As used in this chapter:

(1) "Agent" means "agent" as defined in Section 61-1-13.

(2) "Certified dealer" means:

(a) a primary reporting dealer recognized by the Federal Reserve Bank of New

York who is certified by the director as having met the applicable criteria of council rule;
or

(b) a broker dealer who:

- (i) has and maintains an office and a resident registered principal in the state;
- (ii) meets the capital requirements established by council rules;
- (iii) meets the requirements for good standing established by council rule; and
- (iv) is certified by the director as meeting quality criteria established by council

rule.

(3) "Certified investment adviser" means a federal covered adviser, as defined in Section 61-1-13, or an investment adviser, as defined in Section 61-1-13, who is certified by the director as having met the applicable criteria of council rule.

(4) "Commissioner" means the commissioner of financial institutions.

(5) "Council" means the State Money Management Council created by Section 51-7-16.

(6) "Covered bond" means a publicly placed debt security issued by a bank, other regulated financial institution, or a subsidiary of either that is secured by a pool of loans that remain on the balance sheet of the issuer or its subsidiary.

(7) "Director" means the director of the Utah State Division of Securities of the Department of Commerce.

(8) (a) "Endowment funds" means gifts, devises, or bequests of property of any kind donated to a higher education institution from any source.

(b) "Endowment funds" does not mean money used for the general operation of a higher education institution that is received by the higher education institution from:

- (i) state appropriations;
- (ii) federal contracts;
- (iii) federal grants;
- (iv) private research grants; and
- (v) tuition and fees collected from students.

(9) "First tier commercial paper" means commercial paper rated by at least two nationally recognized statistical rating organizations in the highest short-term rating category.

(10) "Funds functioning as endowments" means funds, regardless of source, whose corpus is intended to be held in perpetuity by formal institutional designation according to the institution's policy for designating those funds.

(11) "GASB" or "Governmental Accounting Standards Board" means the Governmental Accounting Standards Board that is responsible for accounting standards used by public entities.

(12) "Hard put" means an unconditional sell-back provision or a redemption provision applicable at issue to a note or bond, allowing holders to sell their holdings back to the issuer or to an equal or higher-rated third party provider at specific intervals and specific prices determined at the time of issuance.

(13) "Higher education institution" means the institutions specified in Section 53B-1-102.

(14) "Investment adviser representative" is as defined in Section 61-1-13.

(15) (a) "Investment agreement" means any written agreement that has specifically negotiated withdrawal or reinvestment provisions and a specifically

negotiated interest rate.

(b) "Investment agreement" includes any agreement to supply investments on one or more future dates.

(16) "Local government" means a county, municipality, school district, local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, special service district under Title 17D, Chapter 1, Special Service District Act, or any other political subdivision of the state.

(17) "Market value" means market value as defined in the Master Repurchase Agreement.

(18) "Master Repurchase Agreement" means the current standard Master Repurchase Agreement approved by the Public Securities Association or by any successor organization.

(19) "Maximum amount" means, with respect to qualified depositories, the total amount of:

(a) deposits in excess of the federal deposit insurance limit; and

(b) nonqualifying repurchase agreements.

(20) "Money market mutual fund" means an open-end managed investment fund:

(a) that complies with the diversification, quality, and maturity requirements of Rule 2a-7 or any successor rule of the Securities and Exchange Commission applicable to money market mutual funds; and

(b) that assesses no sales load on the purchase of shares and no contingent deferred sales charge or other similar charges, however designated.

(21) "Nationally recognized statistical rating organization" means an organization that has been designated as a nationally recognized statistical rating organization by the Securities and Exchange Commission's Division of Market Regulation.

(22) "Nonqualifying repurchase agreement" means a repurchase agreement evidencing indebtedness of a qualified depository arising from the transfer of obligations of the United States Treasury or other authorized investments to public treasurers that is:

(a) evidenced by a safekeeping receipt issued by the qualified depository;

(b) included in the depository's maximum amount of public funds; and

(c) valued and maintained at market value plus an appropriate margin collateral requirement based upon the term of the agreement and the type of securities acquired.

(23) "Operating funds" means current balances and other funds that are to be disbursed for operation of the state government or any of its boards, commissions, institutions, departments, divisions, agencies, or other similar instrumentalities, or any county, city, school district, political subdivision, or other public body.

(24) "Permanent funds" means funds whose principal may not be expended, the earnings from which are to be used for purposes designated by law.

(25) "Permitted depository" means any out-of-state financial institution that meets quality criteria established by rule of the council.

(26) "Public funds" means money, funds, and accounts, regardless of the source from which the money, funds, and accounts are derived, that are owned, held, or administered by the state or any of its boards, commissions, institutions, departments, divisions, agencies, bureaus, laboratories, or other similar

instrumentalities, or any county, city, school district, political subdivision, or other public body.

(27) (a) "Public money" means "public funds."

(b) "Public money," as used in Article VII, Sec. 15, Utah Constitution, means the same as "state funds."

(28) "Public treasurer" includes the state treasurer and the official of any state board, commission, institution, department, division, agency, or other similar instrumentality, or of any county, city, school district, political subdivision, or other public body who has the responsibility for the safekeeping and investment of any public funds.

(29) "Qualified depository" means a Utah depository institution or an out-of-state depository institution, as those terms are defined in Section 7-1-103, that is authorized to conduct business in this state under Section 7-1-702 or Title 7, Chapter 19, Acquisition of Failing Depository Institutions or Holding Companies, whose deposits are insured by an agency of the federal government and that has been certified by the commissioner of financial institutions as having met the requirements established under this chapter and the rules of the council to be eligible to receive deposits of public funds.

(30) "Qualifying repurchase agreement" means a repurchase agreement evidencing indebtedness of a financial institution or government securities dealer acting as principal arising from the transfer of obligations of the United States Treasury or other authorized investments to public treasurers only if purchased securities are:

(a) delivered to the public treasurer's safekeeping agent or custodian as contemplated by Section 7 of the Master Repurchase Agreement; and

(b) valued and maintained at market value plus an appropriate margin collateral requirement based upon the term of the agreement and the type of securities acquired.

(31) "Reciprocal deposits" means deposits that are initially deposited into a qualified depository and are then redeposited through a deposit account registry service:

(a) in one or more FDIC-insured depository institutions in amounts up to the relevant FDIC-insured deposit limit for a depositor in each depository institution; and

(b) in exchange for reciprocal FDIC-insured deposits made through the deposit account registry service to the qualified depository.

(32) "Securities division" means Utah's Division of Securities created within the Department of Commerce by Section 13-1-2.

(33) "State funds" means:

(a) public money raised by operation of law for the support and operation of the state government; and

(b) all other money, funds, and accounts, regardless of the source from which the money, funds, or accounts are derived, that are owned, held, or administered by the state or any of its boards, commissions, institutions, departments, divisions, agencies, bureaus, laboratories, or other similar instrumentalities.

Amended by Chapter 204, 2013 General Session

Amended by Chapter 388, 2013 General Session

51-7-3.5. State fiscal year.

The fiscal year of the state of Utah shall commence on the first day of July of each year.

Renumbered and Amended by Chapter 382, 2008 General Session

51-7-4. Transfer of functions, powers, and duties relating to public funds to state treasurer -- Exceptions -- Deposit of income from investment of state money.

(1) Unless otherwise required by the Utah Constitution or applicable federal law, the functions, powers, and duties vested by law in each state officer, board, commission, institution, department, division, agency, or other similar instrumentality relating to the deposit, investment, or reinvestment of public funds, and the purchase, sale, or exchange of investments or securities of, or for, funds or accounts under the control and management of each of these instrumentalities, are transferred to and shall be exercised by the state treasurer, except:

(a) funds assigned to the Utah State Retirement Board for investment under Section 49-11-302;

(b) funds of member institutions of the state system of higher education:

(i) acquired by gift, devise, or bequest, or by federal or private contract or grant;

(ii) derived from student fees or from income from operations of auxiliary enterprises, which fees and income are pledged or otherwise dedicated to the payment of interest and principal of bonds issued by an institution of higher education;

(iii) subject to rules made by the council, under Section 51-7-18, deposited in a foreign depository institution as defined in Section 7-1-103; and

(iv) other funds that are not included in the institution's work program as approved by the State Board of Regents;

(c) inmate funds as provided in Section 64-13-23 or in Title 64, Chapter 9b, Work Programs for Prisoners;

(d) trust funds established by judicial order;

(e) funds of the Workers' Compensation Fund;

(f) funds of the Utah Housing Corporation;

(g) endowment funds of higher education institutions; and

(h) the funds of the Utah Educational Savings Plan.

(2) All public funds held or administered by the state or its boards, commissions, institutions, departments, divisions, agencies, or similar instrumentalities and not transferred to the state treasurer as provided by this section shall be:

(a) deposited and invested by the custodian in accordance with this chapter, unless otherwise required by statute or by applicable federal law; and

(b) reported to the state treasurer in a form prescribed by the state treasurer.

(3) Unless otherwise provided by the constitution or laws of this state or by contractual obligation, the income derived from the investment of state money by the state treasurer shall be deposited in and become part of the General Fund.

Amended by Chapter 388, 2013 General Session

51-7-5. Transfer of public funds not otherwise required to be transferred

to state treasurer -- Duties of public treasurers -- Withdrawals of transferred funds.

Any public funds as to which the deposit, investment, or reinvestment is not transferred to the state treasurer by Section 51-7-4, may be transferred to the state treasurer by the public treasurer having responsibility for the control or management of these public funds. Notwithstanding the transfer, the public treasurer shall retain sufficient funds to cover the cash requirements of the body owning or having control or management of these funds and shall continue to be responsible for the proper collection, deposit, and disbursement of these funds in the manner provided by law. The public funds transferred or placed under the control or supervision of the state treasurer under this section are subject to all applicable provisions of this chapter and are under the jurisdiction of the state treasurer until the public treasurer withdraws these public funds from the state treasurer. Withdrawals may be made from time to time on such reasonable notice as the state treasurer may prescribe. The public treasurer may withdraw all or any part of the public funds originally transferred to the state treasurer, subject to any rules as to the maximum amounts which may be withdrawn at any one time as the state treasurer may reasonably prescribe.

Amended by Chapter 44, 1984 General Session

51-7-6. Calculation of shares of participating funds -- Allocations of income to participating funds.

(1) The share of public funds of each participating public treasurer who has transferred public funds to the state treasurer for investment under Section 51-7-5, including trust funds invested by the state treasurer under this chapter, shall be calculated not less than quarterly.

(2) Income from investment of these public funds by the state treasurer, including gains or losses from the sale or exchange of investments or other properties, and net of investment fees and other charges assessed according to the schedule established by the state treasurer, shall be allocated to each participating fund on the ratio of each fund's share to the total public funds in the custody of the state treasurer determined on the basis of the average daily balance of each fund.

Amended by Chapter 66, 1989 General Session

51-7-7. Securities and evidence of deposits and investments -- Custody -- Deposit for safekeeping.

(1) (a) (i) The public treasurer shall have custody of all securities purchased or held and all evidence of deposits and investments of public funds.

(ii) All securities shall be delivered versus payment to the public treasurer or to the treasurer's safekeeping bank.

(b) The public treasurer may deposit any of these securities with a bank or trust company to be held in safekeeping by that custodian.

(c) The provisions of this section do not apply to securities acquired under a nonqualifying repurchase agreement as defined in Section 51-7-3.

(d) The provisions of this section apply to any book-entry-only deposit or security

the ownership records of which are maintained with a securities depository, in the Federal Book Entry system authorized by the U.S. Department of Treasury, or in the book-entry records of the issuer, as follows:

(i) the direct ownership of the deposit or security by the public treasurer shall be reflected in the book-entry records and represented by a receipt, confirmation, or statement issued to the public treasurer by the custodian of the book-entry system; or

(ii) the ownership of the deposit or security by the public treasurer's custodial bank or trust company shall be reflected in the book-entry records and the public treasurer's ownership shall be represented by a receipt, confirmation, or statement issued by the custodial bank or trust company.

(2) The public treasurer may maintain accounts with money center banks only for the purposes of settling investment transactions, safekeeping, and collecting those investments.

Amended by Chapter 388, 2013 General Session

51-7-8. Separate accounts for funds -- Credit of allocated shares of income and gains or losses.

The state treasurer shall keep for each fund for which investments are made, a separate account, to be designated by name and number, which shall record the individual amounts and the totals of all investments belonging to the fund, and shall credit to each fund not less often than quarterly its allocated share of the income from the investments of pooled funds, and gains or losses from the sale or exchange of pooled investment assets.

Amended by Chapter 44, 1984 General Session

51-7-9. Quarterly reports by state treasurer -- Audit of accounts of state treasurer -- Report of audit -- Employment of investment staff and services.

The state treasurer shall report not less often than quarterly to each participating state officer, board, commission, institution, department, division, agency, or other similar instrumentality, or political subdivision, the activities, investments, and performance of his office during the preceding period. The accounts of the state treasurer shall be audited annually under the direction of the state auditor. The report of this audit shall be open for inspection by the public in the offices of the state auditor and the state treasurer and a copy of it shall be submitted to the legislature through the Office of the Legislative Fiscal Analyst. The state treasurer is authorized, within the limits of available appropriations, to employ such investment staff and secure such financial, investment, and other technical services he considers necessary to properly carry out his responsibilities under this chapter.

Amended by Chapter 44, 1984 General Session

51-7-9.5. State School Fund report.

(1) The state treasurer shall prepare a report at the end of each fiscal year on the State School Fund created in Utah Constitution Article X, Section 5.

- (2) The report shall include the following information:
- (a) the name of each asset within the fund and the fair market value of each asset as of June 30;
 - (b) the amount and date of each contribution to the fund during the fiscal year;
 - (c) a balance sheet for the most recently completed fiscal year and the previous fiscal year;
 - (d) the fund's internal rate of return for the previous year, three years, and five years and a comparison of the fund's internal rate of return with benchmark rates of return for the previous year, three years, and five years for the same asset classes;
 - (e) a summary of the asset allocation policy for the fund;
 - (f) a description of the fund income, including amounts distributed and amounts retained; and
 - (g) expenses in dollars and as a percent of fund assets.
- (3) The state treasurer shall submit the report to the Education Interim Committee by October 1 of each year.

Amended by Chapter 307, 2014 General Session

51-7-11. Authorized deposits or investments of public funds.

- (1) (a) Except as provided in Subsections (1)(b) and (1)(c), a public treasurer shall conduct investment transactions through qualified depositories, certified dealers, or directly with issuers of the investment securities.
- (b) A public treasurer may designate a certified investment adviser to make trades on behalf of the public treasurer.
- (c) A public treasurer may make a deposit in accordance with Section 53B-7-601 in a foreign depository institution as defined in Section 7-1-103.
- (2) The remaining term to maturity of the investment may not exceed the period of availability of the funds to be invested.
- (3) Except as provided in Subsection (4), all public funds shall be deposited or invested in the following assets that meet the criteria of Section 51-7-17:
- (a) negotiable or nonnegotiable deposits of qualified depositories;
 - (b) qualifying or nonqualifying repurchase agreements and reverse repurchase agreements with qualified depositories using collateral consisting of:
 - (i) Government National Mortgage Association mortgage pools;
 - (ii) Federal Home Loan Mortgage Corporation mortgage pools;
 - (iii) Federal National Mortgage Corporation mortgage pools;
 - (iv) Small Business Administration loan pools;
 - (v) Federal Agriculture Mortgage Corporation pools; or
 - (vi) other investments authorized by this section;
 - (c) qualifying repurchase agreements and reverse repurchase agreements with certified dealers, permitted depositories, or qualified depositories using collateral consisting of:
 - (i) Government National Mortgage Association mortgage pools;
 - (ii) Federal Home Loan Mortgage Corporation mortgage pools;
 - (iii) Federal National Mortgage Corporation mortgage pools;
 - (iv) Small Business Administration loan pools; or

- (v) other investments authorized by this section;
- (d) commercial paper that is classified as "first tier" by two nationally recognized statistical rating organizations, which has a remaining term to maturity of:
 - (i) 270 days or fewer for paper issued under 15 U.S.C. Sec. 77c(a)(3); or
 - (ii) 365 days or fewer for paper issued under 15 U.S.C. Sec. 77d(2);
- (e) bankers' acceptances that:
 - (i) are eligible for discount at a Federal Reserve bank; and
 - (ii) have a remaining term to maturity of 270 days or fewer;
- (f) fixed rate negotiable deposits issued by a permitted depository that have a remaining term to maturity of 365 days or fewer;
- (g) obligations of the United States Treasury, including United States Treasury bills, United States Treasury notes, and United States Treasury bonds;
- (h) obligations other than mortgage pools and other mortgage derivative products issued by, or fully guaranteed as to principal and interest by, the following agencies or instrumentalities of the United States in which a market is made by a primary reporting government securities dealer, unless the agency or instrumentality has become private and is no longer considered to be a government entity:
 - (i) Federal Farm Credit banks;
 - (ii) Federal Home Loan banks;
 - (iii) Federal National Mortgage Association;
 - (iv) Federal Home Loan Mortgage Corporation;
 - (v) Federal Agriculture Mortgage Corporation; and
 - (vi) Tennessee Valley Authority;
- (i) fixed rate corporate obligations that:
 - (i) are rated "A" or higher or the equivalent of "A" or higher by two nationally recognized statistical rating organizations;
 - (ii) are senior unsecured or secured obligations of the issuer, excluding covered bonds;
 - (iii) are publicly traded; and
 - (iv) have a remaining term to final maturity of 15 months or less or are subject to a hard put at par value or better, within 365 days;
- (j) tax anticipation notes and general obligation bonds of the state or a county, incorporated city or town, school district, or other political subdivision of the state, including bonds offered on a when-issued basis without regard to the limitations in Subsection (7);
- (k) bonds, notes, or other evidence of indebtedness of a county, incorporated city or town, school district, or other political subdivision of the state that are payable from assessments or from revenues or earnings specifically pledged for payment of the principal and interest on these obligations, including bonds offered on a when-issued basis without regard to the limitations in Subsection (7);
- (l) shares or certificates in a money market mutual fund;
- (m) variable rate negotiable deposits that:
 - (i) are issued by a qualified depository or a permitted depository;
 - (ii) are repriced at least semiannually; and
 - (iii) have a remaining term to final maturity not to exceed three years;
- (n) variable rate securities that:

- (i) (A) are rated "A" or higher or the equivalent of "A" or higher by two nationally recognized statistical rating organizations;
- (B) are senior unsecured or secured obligations of the issuer, excluding covered bonds;
- (C) are publicly traded;
- (D) are repriced at least semiannually; and
- (E) have a remaining term to final maturity not to exceed three years or are subject to a hard put at par value or better, within 365 days;
- (ii) are not mortgages, mortgage-backed securities, mortgage derivative products, or a security making unscheduled periodic principal payments other than optional redemptions; and
- (o) reciprocal deposits made in accordance with Subsection 51-7-17(4).
- (4) The following public funds are exempt from the requirements of Subsection (3):
 - (a) the Employers' Reinsurance Fund created in Section 34A-2-702;
 - (b) the Uninsured Employers' Fund created in Section 34A-2-704;
 - (c) a local government other post-employment benefits trust fund under Section 51-7-12.2; and
 - (d) a nonnegotiable deposit made in accordance with Section 53B-7-601 in a foreign depository institution as defined in Section 7-1-103.
- (5) If any of the deposits authorized by Subsection (3)(a) are negotiable or nonnegotiable large time deposits issued in amounts of \$100,000 or more, the interest shall be calculated on the basis of the actual number of days divided by 360 days.
- (6) A public treasurer may maintain fully insured deposits in demand accounts in a federally insured nonqualified depository only if a qualified depository is not reasonably convenient to the entity's geographic location.
- (7) Except as provided under Subsections (3)(j) and (k), the public treasurer shall ensure that all purchases and sales of securities are settled within:
 - (a) 15 days of the trade date for outstanding issues; and
 - (b) 30 days for new issues.

Amended by Chapter 204, 2013 General Session
 Amended by Chapter 388, 2013 General Session

51-7-11.5. Certified investment advisers -- Scope of and limits to authority.

- (1) Certified investment advisers may not make any investments that are inconsistent with this chapter or rules of the council.
- (2) Certified investment advisers acting on behalf of a public treasurer shall conduct investment transactions only through qualified depositories, certified dealers, or directly with issuers of the investment securities.

Amended by Chapter 254, 2007 General Session

51-7-12.2. Definitions -- Local government other post-employment benefits trust fund -- Investments -- State treasurer duties.

- (1) As used in this section:

(a) "Local Government OPEB Trust Fund" or "Local Government Other Post-Employment Benefits Trust Fund" means money set aside by a local government to fund future payments of benefits, other than pensions, to a former employee who is qualified for the benefits.

(b) "Local Government OPEB Trust Fund" does not include money for deposit in the Utah State Retirement Investment Fund created under Section 49-11-301, or money for deposit in the Post-Retirement Benefits Trust Fund created under Section 67-19d-201.

(2) All local government OPEB trust fund money in the custody of a local government treasurer shall be established in a separate trust fund in accordance with standards established by the Governmental Accounting Standards Board.

(3) Money in a local government OPEB trust fund may be deposited or invested only in the following assets that meet the criteria of Section 51-7-17:

(a) a deposit or investment authorized under Section 51-7-11;

(b) indexed funds of an open-end diversified management investment company established under the Investment Companies Act of 1940; or

(c) indexed funds that are administered by the state treasurer in accordance with Subsection (4).

(4) The state treasurer may:

(a) develop and offer a variety of asset allocation options for money in a local government OPEB trust fund;

(b) review for efficiency, the asset allocation options offered under Subsection (4)(a) as needed; and

(c) charge an administrative fee of not more than .005 percent per month of the assets managed for cost incurred in the management of funds within an asset allocation option.

Enacted by Chapter 207, 2007 General Session

51-7-12.5. Deposit or investment of the Employers' Reinsurance Fund and Uninsured Employers' Fund -- Authorized deposits and investments -- Asset manager.

(1) The principal of the Employers' Reinsurance Fund created in Section 34A-2-702, and the Uninsured Employers' Fund created in Section 34A-2-704 shall be deposited or invested only in the following:

(a) any deposit or investment authorized by Section 51-7-11;

(b) equity securities, including common and preferred stock issued by corporations listed on a major securities exchange, in accordance with the following criteria applied at the time of investment:

(i) the treasurer may not invest more than 5%, determined on a cost basis, of the total fund assets in the securities of any one issuer;

(ii) the treasurer may not invest more than 25%, determined on a cost basis, of total fund assets in a particular industry;

(iii) the treasurer may not invest more than 5%, determined on a cost basis, of the total fund assets in securities of corporations that have been in continuous operation for less than three years;

(iv) the fund may not hold in excess of 5% of the outstanding voting securities of any one corporation; and

(v) at least 75% of the corporations in which investments are made under Subsection (1)(b) must appear on the Standard and Poor's 500 Composite Stock Price Index;

(c) fixed-income securities, including bonds, notes, mortgage securities, zero coupon securities and convertible securities issued by domestic corporations rated "A" or higher or the equivalent of "A" or higher by two nationally recognized statistical rating organizations in accordance with the following criteria applied at the time of investment:

(i) the treasurer may not invest more than 5%, determined on a cost basis, of the total fund assets in the securities of any one issuer;

(ii) the treasurer may not invest more than 25%, determined on a cost basis, of the total fund assets in a particular industry;

(iii) the treasurer may not invest more than 5%, determined on a cost basis, of the total fund assets in securities of corporations that have been in continuous operation for less than three years; and

(iv) the dollar-weighted average maturity of fixed-income securities acquired under Subsection (1)(c) may not exceed 10 years;

(d) fixed-income securities issued by agencies of the United States and government-sponsored organizations, including mortgage-backed pass-through certificates and mortgage-backed bonds;

(e) shares of an open-end diversified management investment company established under the Investment Companies Act of 1940; or

(f) shares of or deposits in a pooled-investment program.

(2) (a) No more than 65% of the total fund assets of any of these funds, on a cost basis, may be invested in common or preferred stocks at any one time.

(b) At least 35% of the total assets of these funds shall be invested in fixed-income securities authorized by Section 51-7-11 and Subsections (1)(c) and (d).

(3) The state treasurer shall use appropriate investment strategies to protect the principal of the funds administered under this section during periods of financial market volatility.

(4) (a) The state treasurer may employ professional asset managers to assist in the investment of assets of the funds.

(b) The treasurer may provide compensation to asset managers from earnings generated by the funds' investments.

Amended by Chapter 204, 2013 General Session

51-7-13. Funds of member institutions of state system of higher education and public education foundations -- Authorized deposits or investments.

(1) The provisions of this section apply to all funds of:

(a) higher education institutions, other than endowment funds, that are not transferred to the state treasurer under Section 51-7-4; and

(b) public education foundations established under Section 53A-4-205.

(2) (a) Proceeds of general obligation bond issues and all funds pledged or otherwise dedicated to the payment of interest and principal of general obligation bonds

issued by or for the benefit of the institution shall be invested according to the requirements of:

- (i) Section 51-7-11 and the rules of the council; or
- (ii) the terms of the borrowing instruments applicable to those bonds and funds if those terms are more restrictive than Section 51-7-11.

(b) (i) The public treasurer shall invest the proceeds of bonds other than general obligation bonds issued by or for the benefit of the institution and all funds pledged or otherwise dedicated to the payment of interest and principal of bonds other than general obligation bonds according to the terms of the borrowing instruments applicable to those bonds.

(ii) If no provisions governing investment of bond proceeds or pledged or dedicated funds are contained in the borrowing instruments applicable to those bonds or funds, the public treasurer shall comply with the requirements of Section 51-7-11 in investing those proceeds and funds.

(c) All other funds in the custody or control of any of those institutions or public education foundations shall be invested as provided in Section 51-7-11 and the rules of the council.

(3) (a) Each institution shall make monthly reports detailing the deposit and investment of funds in its custody or control to its institutional council and the State Board of Regents.

(b) The state auditor may conduct or cause to be conducted an annual audit of the investment program of each institution.

(c) The State Board of Regents shall:

- (i) require whatever internal controls and supervision are necessary to ensure the appropriate safekeeping, investment, and accounting for all funds of these institutions; and

- (ii) submit annually to the governor and the Legislature a summary report of all investments by institutions under its jurisdiction.

Amended by Chapter 178, 2005 General Session

51-7-14. Prudent man rule for management of investments -- Sale of security or investment for less than cost.

(1) Persons selecting investments authorized by Sections 51-7-11 and 51-7-13 shall:

- (a) exercise that degree of judgment and care, under the circumstances prevailing at the time the investment is selected, that persons of prudence, discretion, and intelligence exercise in the management of their own affairs;

- (b) select investments not for speculation but for investment;

- (c) consider:

- (i) the probable safety of the capital;

- (ii) the probable benefits to be derived;

- (iii) the probable duration for which that investment may be made;

- (iv) the investment objectives specified in Section 51-7-17; and

- (v) the investment portfolio as a whole.

(2) A public treasurer may sell or otherwise dispose of, at less than cost, any

security or investment in which public funds under his jurisdiction have been invested if that sale or other disposition tends to maximize the benefits that may be derived from the changed investment.

Amended by Chapter 277, 2006 General Session

51-7-15. Bonds of state treasurer and other public treasurers -- Reports to council.

(1) (a) The state treasurer, county, city, and town treasurers, the clerk or treasurer of each school district, and other public treasurers that the council designates by rule shall be bonded in an amount of not less than that established by the council.

(b) The council shall base the minimum bond amount on the amount of public funds normally in the treasurer's possession or control.

(2) (a) When a public treasurer deposits or invests public funds as authorized by this chapter, the public treasurer and the public treasurer's bondsmen are not liable for any loss of public funds invested or deposited unless the loss is caused by the malfeasance of the public treasurer or a member of the public treasurer's staff.

(b) A public treasurer and the public treasurer's bondsmen are liable for a loss for any reason from deposits or investments not made in conformity with this chapter and the rules of the council.

(3) (a) A public treasurer shall file a written report with the council on or before January 31 and July 31 of each year.

(b) The report shall contain:

(i) the information about the deposits and investments of that public treasurer during the preceding six months ending December 31 and June 30, respectively, that the council requires by rule; and

(ii) information detailing the nature and extent of interest rate contracts permitted by Subsection 51-7-17(3).

(c) A public treasurer shall make copies of the report available to the public at the public treasurer's office during normal business hours.

Amended by Chapter 278, 2013 General Session

Amended by Chapter 388, 2013 General Session

51-7-16. State Money Management Council -- Members -- Terms -- Vacancies -- Chair and vice chair-- Executive secretary -- Meetings -- Quorum -- Members' disclosure of interests -- Per diem and expenses.

(1) (a) There is created a State Money Management Council composed of five members appointed by the governor after consultation with the state treasurer and with the consent of the Senate.

(b) The members of the council shall be qualified by training and experience in the field of investment or finance as follows:

(i) at least one member, but not more than two members, shall be experienced in the banking business;

(ii) at least one member, but not more than two members, shall be an elected treasurer;

(iii) at least one member, but not more than two members, shall be an appointed public treasurer; and

(iv) two members, but not more than two members, shall be experienced in the field of investment.

(c) No more than three members of the council may be from the same political party.

(2) (a) Except as required by Subsection (2)(b), the council members shall be appointed for terms of four years.

(b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of council members are staggered so that approximately half of the council is appointed every two years.

(c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(d) All members shall serve until their successors are appointed and qualified.

(3) (a) The council members shall elect a chair and vice chair.

(b) The state treasurer shall serve as executive secretary of the council without vote.

(4) (a) The council shall meet at least once per quarter at a regular date to be fixed by the council and at other times at the call of the chair, the state treasurer, or any two members of the council.

(b) Three members are a quorum for the transaction of business.

(c) Actions of the council require a vote of a majority of those present.

(d) All meetings of the council and records of its proceedings are open for inspection by the public at the state treasurer's office during regular business hours except for:

(i) reports of the commissioner of financial institutions concerning the identity, liquidity, or financial condition of qualified depositories and the amount of public funds each is eligible to hold; and

(ii) reports of the director concerning the identity, liquidity, or financial condition of certified dealers.

(5) (a) Each member of the council shall file a sworn or written statement with the lieutenant governor that discloses any position or employment or ownership interest that he has in any financial institution or investment organization.

(b) Each member shall file the statement required by this Subsection (5) when he becomes a member of the council and when substantial changes in his position, employment, or ownership interests occur.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Amended by Chapter 286, 2010 General Session

51-7-17. Criteria for investments.

(1) As used in this section:

(a) "Affiliate" means, in relation to a provider:

- (i) an entity controlled, directly or indirectly, by the provider;
- (ii) an entity that controls, directly or indirectly, the provider; or
- (iii) an entity directly or indirectly under common control with the provider.

(b) "Control" means ownership of a majority of the voting power of the entity or provider.

(2) (a) A public treasurer shall consider and meet the following objectives when depositing and investing public funds:

- (i) safety of principal;
- (ii) protection of principal during periods of financial market volatility;
- (iii) need for liquidity;
- (iv) yield on investments;
- (v) recognition of the different investment objectives of operating and permanent funds; and

(vi) maturity of investments, so that the maturity date of the investment does not exceed the anticipated date of the expenditure of funds.

(b) A public treasurer shall invest the proceeds of general obligation bond issues, tax anticipation note issues, and funds pledged or otherwise dedicated to the payment of interest and principal of general obligation bonds and tax anticipation notes issued by the state or a political subdivision of the state in accordance with:

- (i) Section 51-7-11; or
- (ii) the terms of the borrowing instrument applicable to those issues and funds, if those terms are more restrictive than Section 51-7-11.

(c) A public treasurer shall invest the proceeds of bonds other than general obligation bonds and the proceeds of notes other than tax anticipation notes issued by the state or a political subdivision of the state, and all funds pledged or otherwise dedicated to the payment of interest and principal of those notes and bonds:

- (i) in accordance with the terms of the borrowing instruments applicable to those bonds or notes; or
- (ii) if none of those provisions are applicable, in accordance with Section 51-7-11.

(d) A public treasurer may invest proceeds of bonds, notes, or other money pledged or otherwise dedicated to the payment of debt service on the bonds or notes in investment agreements if:

- (i) the investment is permitted by the terms of the borrowing instrument applicable to those bonds or notes or the borrowing instrument authorizes the investment as an investment permitted by the State Money Management Act;
- (ii) either the provider of the investment agreement or an entity fully, unconditionally, and irrevocably guaranteeing the provider's obligations under the investment agreement has received a rating of:

(A) at least "AA-" from S&P or "Aa3" from Moody's for investment agreements having a term of more than one year; or

(B) at least "A-1+" from S&P or "P-1" from Moody's for investment agreements having a term of one year or less;

(iii) the investment agreement contains provisions approved by the public treasurer that provide that, in the event of a rating downgrade of the provider or its affiliate guarantor, as applicable, by either S&P or Moody's below the "A" category or its equivalent, or a rating downgrade of a nonaffiliate guarantor by either S&P or Moody's below the "AA" category or its equivalent, the provider must, within 30 days after receipt of notice of the downgrade:

(A) collateralize the investment agreement with direct obligations of, or obligations guaranteed by, the United States of America having a market value at least equal to 105% of the amount of the money invested, valued at least quarterly, and deposit the collateral with a third-party custodian or trustee selected by the public treasurer; or

(B) terminate the agreement without penalty and repay all of the principal invested and the interest accrued on the investment to the date of termination; and

(iv) the public treasurer receives an enforceability opinion from the legal counsel of the investment agreement provider and, if there is a guarantee, an enforceability opinion from the legal counsel of the guarantor with respect to the guarantee.

(3) (a) As used in this Subsection (3), "interest rate contract" means interest rate exchange contracts, interest rate floor contracts, interest rate ceiling contracts, or other similar contracts authorized by resolution of the governing board or issuing authority, as applicable.

(b) A public treasurer may:

(i) enter into interest rate contracts that the governing board or issuing authority determines are necessary, convenient, or appropriate for the control or management of debt or for the cost of servicing debt; and

(ii) use its public funds to satisfy its payment obligations under those contracts.

(c) Those contracts:

(i) shall comply with the requirements established by council rules; and

(ii) may contain payment, security, default, termination, remedy, and other terms and conditions that the governing board or issuing authority considers appropriate.

(d) Neither interest rate contracts nor public funds used in connection with these interest rate contracts may be considered a deposit or investment.

(4) A public treasurer shall ensure that all public funds invested in deposit instruments are invested with qualified depositories within Utah, except:

(a) for deposits made in accordance with Section 53B-7-601 in a foreign depository institution as defined in Section 7-1-103;

(b) reciprocal deposits, subject to rules made by the council under Subsection 51-7-18(2); or

(c) if national market rates on instruments of similar quality and term exceed those offered by qualified depositories, investments in out-of-state deposit instruments may be made only with institutions that meet quality criteria set forth by the rules of the council.

Amended by Chapter 307, 2014 General Session

51-7-18. Duties of council.

(1) The council shall:

(a) advise the state treasurer and other public treasurers about investment policies;

(b) cooperate with the commissioner of financial institutions by promoting measures and rules that will assist in strengthening the banking and credit structure of the state;

(c) at least annually, review the rules adopted under the authority of this chapter that relate to the deposit and investment of public funds;

(d) at least annually, distribute the rules and amendments to rules adopted under the authority of this chapter that relate to the deposit and investment of public funds to all public treasurers; and

(e) provide, at least semiannually, a list of certified dealers that meet criteria established by this chapter and council rules.

(2) The council may:

(a) recommend proposed changes in statutes governing the deposit and investment of public funds to the Legislature;

(b) make rules governing:

(i) the financial reporting requirements of qualified depositories in which public funds may be deposited;

(ii) the conditions and procedures for maintaining and revoking a financial institution's designation as a qualified depository;

(iii) the definition of depository capital;

(iv) the conditions for maintaining deposits at a permitted depository;

(v) the conditions and procedures for maintaining and revoking a primary reporting dealer's or a broker dealer's designation as a certified dealer;

(vi) certified investment advisers who deal with public treasurers, including establishing standards and requirements for the use, qualification, and regulation of certified investment advisers;

(vii) the conditions and procedures for maintaining and revoking a federal covered adviser's or an investment adviser's designation as a certified investment adviser;

(viii) the conditions and procedures by which public treasurers may deposit and invest public funds;

(ix) quality criteria for corporate obligations;

(x) the conditions and procedures by which public entities may use interest rate contracts authorized by Subsection 51-7-17(3); and

(xi) other rules necessary to carry out its functions, powers, duties, and responsibilities under this chapter.

(3) The council may not make rules requiring a qualified depository to pledge or deposit any of its assets in order to secure a deposit of public funds, except that public deposits in excess of the maximum amount shall be collateralized as provided in Subsections 51-7-18.1(5)(b) and (6).

(4) Subject to legislative funding, the state treasurer shall supply qualified staff to the council.

(5) If any rule or act of the council would constitute an infringement upon the state treasurer's constitutional duties and powers to have custody of and invest public money, the conflicting rule or act is advisory and not mandatory.

Amended by Chapter 248, 2004 General Session

51-7-18.1. Qualified depositories list -- Reports -- Treatment of confidential information -- Powers -- Staff -- Limits on powers.

(1) (a) The council shall provide a list of qualified depositories to each public treasurer at least semiannually.

(b) The list shall include:

- (i) the name of each qualified depository; and
- (ii) the maximum amount of public funds that each qualified depository is eligible to hold.

(2) In determining the maximum amount of public deposits for a qualified depository, the council may not designate a maximum amount for any qualified depository that is more than twice that depository's capital as defined by council rule.

(3) (a) The council may require each qualified depository to submit monthly reports to the commissioner of Financial Institutions disclosing the amount of public funds held by the depository at the close of business on a day designated by the council.

(b) The council may also require the qualified depository to include in the report:

- (i) information about the character and condition of the qualified depository's assets;
- (ii) information about the qualified depository's deposits and other liabilities;
- (iii) information about the qualified depository's capital; and
- (iv) any other information that the council considers necessary in order for it to fulfill its responsibilities under this chapter.

(c) The council shall require that any reports submitted be verified by the oath or affirmation of the president or vice-president of the qualified depository.

(d) Any officer of a qualified depository who knowingly makes or causes to be made any false statement or report to the council or any false entry in the books or accounts of the qualified depository is guilty of a class A misdemeanor.

(4) (a) Notwithstanding Section 7-1-802, the commissioner may disclose necessary information about the condition of any qualified depository to the council to assist it in evaluating the eligibility of any qualified depository to receive and hold public funds.

(b) If the secretary of the council or any member of the council discloses confidential information obtained from the commissioner under this subsection, he is guilty of a class A misdemeanor.

(c) If any member of the council discloses confidential information obtained from the commissioner under this subsection, the governor shall remove him from his position.

(5) Upon the vote of at least three of the council members, the commissioner shall require any qualified depository to:

- (a) surrender deposits of public funds that exceed the amount that the qualified depository may legally hold under authority of this chapter and council rule; or
- (b) pledge collateral security for those excess deposits.

(6) (a) If the commissioner orders the qualified depository to pledge collateral

security for the excess deposits, the collateral security pledged shall have a market value determined upon the last day of the month of:

(i) 110% of the amount of the excess deposits, if the collateral consists of obligations of or fully guaranteed by the United States or its agencies as to principal and interest, a segregated earmarked deposit account, or notes, drafts, bills of exchange, or bankers' acceptances that are eligible for rediscount or purchase by a federal reserve bank;

(ii) 120% of the amount of the excess deposits, if the collateral consists of obligations of the state of Utah or any of its political subdivisions; and

(iii) 130% of the amount of the excess deposits, if the collateral consists of obligations of other readily marketable bonds, notes, or debentures.

(b) The qualified depository shall deposit any collateral pledged to secure excess deposits with the state treasurer.

(c) The state treasurer may not release the collateral until he has received written confirmation from the commissioner that the qualified depository:

(i) has relinquished the excess deposits; or

(ii) is in compliance with this chapter and council rules.

(7) Any qualified depository that fails to comply with a written order issued by the commissioner under authority of this section within 15 days of receipt of the order is ineligible to receive or renew any deposits or investments of public funds until it receives written authorization to do so from the council.

(8) In addition to the requirements set forth by rule, in order to be certified as a qualified depository as defined in Section 51-7-3, a depository institution shall pay to the commissioner an annual certification fee of \$250 due April 1 of each year.

Amended by Chapter 229, 1990 General Session

51-7-18.2. Public treasurer's reports -- Contents.

(1) The council may:

(a) require a public treasurer to prepare and file a written report in a form prescribed by the council containing the information required by this section; and

(b) specify that the report will contain the information required by this section for any date.

(2) The council shall require the report to include information:

(a) specifying the amount of public funds in the public treasurer's possession or control;

(b) detailing the nature and extent of the deposit and investment of those funds;

(c) detailing the rate of return on each deposit or investment; and

(d) detailing the nature and extent of interest rate contracts authorized by Subsection 51-7-17(3).

(3) The public treasurer shall file the report with the council within 10 days after the day on which the public treasurer receives the council's request.

(4) A public treasurer shall make copies of a report required by this section available for inspection by the public at the public treasurer's office during normal business hours.

Amended by Chapter 278, 2013 General Session
Amended by Chapter 388, 2013 General Session

51-7-18.3. Certified dealers' list -- Fees.

(1) (a) The council shall provide a list of certified dealers to each public treasurer at least semiannually.

(b) The list of certified dealers shall include:

- (i) the name of each certified dealer; and
- (ii) the name of each agent authorized by the certified dealer to conduct investment transactions with the public treasurers.

(2) In addition to the requirements set forth by rule, in order to become a certified dealer as defined in Section 51-7-3, a dealer shall pay to the director an annual certification fee of \$500 due on or before April 30 of each year.

Amended by Chapter 248, 2004 General Session

51-7-18.4. Certified investment advisers' list -- Fees.

(1) (a) The council shall provide a list of certified investment advisers to each public treasurer at least semiannually.

(b) The list of certified investment advisers shall include:

- (i) the name of each certified investment adviser; and
- (ii) the name of each investment adviser representative authorized by the certified investment adviser to provide investment advisory services to public treasurers.

(2) In addition to the requirements set forth by rule, in order to become a certified investment adviser as defined in Section 51-7-3, a certified investment adviser shall pay to the director an annual certification fee of \$500 due on or before April 30 of each year.

Enacted by Chapter 248, 2004 General Session

51-7-19. Increase in deposits of public funds -- Authorization.

(1) The commissioner of financial institutions may, with the approval of the council:

(a) increase for a period not to exceed 90 days the amount of public funds any qualified depository may hold whenever additional deposit resources are required in connection with the flotation, conversion, or redemption of a bond issue, for initial deposits of tax collections or newly received federal money; and

(b) authorize a qualified depository to hold deposits of public funds in excess of the maximum to which the depository would otherwise be entitled to hold under the rules of the council, if the council finds that such excess deposits are necessary or advisable to promote the economic welfare of the area in which the depository is located.

(2) Any increase in deposits of public funds authorized by the commissioner under Subsections (1)(a) or (1)(b) shall be secured by a pledge of collateral as prescribed in Subsection 51-7-18.1(5)(b) to the extent that such increased deposit exceeds the then current maximum for insurance of accounts by the applicable federal

deposit insuring agency.

Amended by Chapter 30, 1992 General Session

51-7-22. Penalty for violation by public treasurer.

(1) Any public treasurer who willfully violates the deposit and investment provisions of this chapter is guilty of a class A misdemeanor.

(2) Any public treasurer who knowingly makes or causes to be made a false statement or report to the council is guilty of a class A misdemeanor.

Amended by Chapter 66, 1989 General Session

51-7-22.4. Penalties for violation by certified investment advisers.

(1) An intentional violation by a certified investment adviser of Section 51-7-7, 51-7-11, or 51-7-11.5, or any rule or order under this chapter is punishable by a civil penalty of:

(a) \$1,000 for each day of noncompliance for the investment adviser; and

(b) \$5,000 for each day of noncompliance for the firm or institution where the certified investment adviser is employed.

(2) In addition to any other penalty for a criminal violation of this chapter, the sentencing judge may impose any penalty or remedy provided for in Subsection 51-7-22.5(1)(b).

(3) Funds collected under Subsection (1) shall be deposited in the General Fund.

Amended by Chapter 322, 2007 General Session

51-7-22.5. Enforcement.

(1) Whenever it appears to the council that any person has engaged, is engaging, or is about to engage in any act or practice constituting a violation of this chapter or any rule issued under authority of this chapter:

(a) the council may bring an action in the appropriate district court of this state or the appropriate court of another state to enjoin the acts or practices and to enforce compliance with this chapter or any rule under this chapter; and

(b) upon a proper showing in an action brought under this section, the court may:

(i) issue a permanent or temporary, prohibitory, or mandatory injunction;

(ii) issue a restraining order or writ of mandamus or other extraordinary writ;

(iii) enter a declaratory judgment;

(iv) order disgorgement;

(v) order rescission;

(vi) impose a fine of not more than \$50,000 for each violation of the chapter; or

(vii) provide any other relief that the court considers appropriate.

(2) An indictment or information may not be returned nor may a civil complaint be filed under this chapter more than five years after discovery of the alleged violation.

Enacted by Chapter 248, 2004 General Session

51-7-23. Investments previously authorized allowed until liquidated.

Any investment held by a public treasurer that as of January 1, 1989, was previously authorized, but no longer qualifies under this chapter, is considered an authorized investment until it matures or is sold.

Amended by Chapter 66, 1989 General Session

51-7-24. Sales and purchase in violation -- Remedies -- Limitation of action.

(1) (a) Each certified investment adviser or certified dealer who transacts securities business with a public treasurer in violation of this chapter or any rule made or order issued under authority of this chapter is liable to the public treasurer.

(b) The public treasurer may either sue to recover either:

(i) damages, if the public treasurer no longer owns the security; or

(ii) the sum of the following, less the amount of any income received on the security upon the tender of the security:

(A) the consideration paid for the security;

(B) interest at 12% per year from the date of payment;

(C) costs; and

(D) reasonable attorney's fees.

(c) Damages are the amount that would be recoverable upon a tender less the value of the security when the public treasurer disposed of it and interest at 12% per year from the date of disposition.

(2) If the court finds that the violation was reckless or indifferent, the court may, in a suit brought under Subsection (1), award an amount equal to three times the consideration paid for the security before adding interest, costs, and attorney's fees and before subtracting the income received from the sale of the security.

(3) (a) Each person who directly or indirectly controls a seller or buyer or investment adviser is liable under Subsection (1).

(b) Except as provided in Subsection (3)(c), the following are liable jointly and severally with and to the same extent as the seller or purchaser:

(i) each partner, officer, or director of a seller or buyer;

(ii) each person occupying a similar status or performing similar functions;

(iii) each employee of a seller or buyer who materially aids in the sale or purchase;

(iv) each certified investment adviser who materially aids in providing the advice; and

(v) each broker-dealer or agent who materially aids or abets in the sale.

(c) The nonseller or nonpurchaser is not liable under Subsection (3)(b) if the nonseller or nonpurchaser proves that he did not know or should have known, and in exercise of reasonable care could not or should not have known, of the existence of the facts that caused the alleged liability.

(4) An action to enforce any liability under this section must begin within five years of the act or transaction constituting the violation or two years after the discovery

by the public treasurer of the facts constituting the violation, whichever occurs later.

(5) A person may not base any suit on a contract if:

(a) the person made or engaged in the performance of the contract in violation of this chapter or any rule or order issued under the authority of this chapter; or

(b) the person acquired any purported right under the contract with knowledge of the facts by reason of which the making of the contract or the performance of the contract was a violation of this chapter or any rule or order issued under the authority of this chapter.

(6) A condition, stipulation, or provision binding a treasurer acquiring a security to waive compliance with this chapter or a rule made or order issued under authority of this chapter is void.

(7) The rights and remedies provided by this section are in addition to any other rights or remedies that may exist at law or in equity.

Enacted by Chapter 248, 2004 General Session

51-7b-101. Title.

This chapter is known as "Investment of Permanent State Trust Fund Money."

Enacted by Chapter 211, 2013 General Session

51-7b-102. Definition.

As used in this chapter, "permanent state trust fund" means the permanent state trust fund created by and operated under Utah Constitution, Article XXII, Section 4.

Enacted by Chapter 211, 2013 General Session

51-7b-201. Investment of money in the permanent state trust fund.

(1) The state treasurer shall:

(a) invest money in the permanent state trust fund with the primary goal of providing for the stability, income, and growth of the permanent state trust fund's principal;

(b) in making investment decisions, consider:

(i) general economic conditions;

(ii) the possible effect of inflation and deflation;

(iii) the role that each investment or course of action plays within the overall permanent state trust fund portfolio;

(iv) the expected total return from income and the appreciation of capital; and

(v) needs for liquidity, regularity of income, and preservation or appreciation of capital; and

(c) diversify the investments of the permanent state trust fund, unless the state treasurer reasonably determines that the purposes of the permanent state trust fund are better served without diversifying.

(2) Nothing in this section requires a specific outcome in investing.

(3) The state treasurer may deduct any administrative costs incurred in managing permanent state trust fund assets from earnings before transferring them to

the General Fund.

(4) (a) The state treasurer may contract with professional asset managers to assist in the investment of assets of the permanent state trust fund.

(b) The treasurer may provide compensation to asset managers only from assets generated by the permanent state trust fund's investments.

Enacted by Chapter 211, 2013 General Session

51-7b-202. Prudent investor standard -- Determining whether standard met.

(1) The state treasurer shall invest and manage the permanent state trust fund assets as a prudent investor would, by:

(a) considering the purposes, terms, distribution requirements, and other circumstances of the permanent state trust fund; and

(b) exercising reasonable care, skill, and caution in order to meet the standard of care of a prudent investor.

(2) In determining whether the state treasurer has met the standard of care of a prudent investor, a finder of fact shall:

(a) consider the state treasurer's investment decision or action in light of the facts and circumstances existing at the time of the decision or action, and not by hindsight; and

(b) evaluate the state treasurer's investment and management decisions respecting individual assets:

(i) not in isolation, but in the context of the permanent state trust fund portfolio as a whole; and

(ii) as a part of an overall investment strategy that has risk and return objectives reasonably suited to the permanent state trust fund.

Enacted by Chapter 211, 2013 General Session

51-8-101. Title.

This chapter is known as the "Uniform Prudent Management of Institutional Funds Act."

Enacted by Chapter 59, 2007 General Session

51-8-102. Definitions.

As used in this chapter:

(1) "Charitable purpose" means the relief of poverty, the advancement of education or religion, the promotion of health, the promotion of governmental purposes, and any other purpose the achievement of which is beneficial to the community.

(2) (a) "Endowment fund" means an institutional fund, or any part of an institutional fund, not wholly expendable by the institution on a current basis under the terms of a gift instrument.

(b) "Endowment fund" does not include assets of an institution designated by the institution as an endowment fund for its own use.

(3) "Gift instrument" means a record or records, including an institutional solicitation, under which property is granted to, transferred to, or held by an institution as an institutional fund.

(4) (a) "Governing board" means the body responsible for the management of an institution or of an institutional fund.

(b) "Governing board" means, for a higher education institution, the board of trustees of the higher education institution.

(5) "Higher education institution" means the institutions specified in Section 53B-1-102.

(6) "Institution" means:

(a) a person, other than an individual, organized and operated exclusively for charitable purposes;

(b) a government or a governmental subdivision, agency, or instrumentality to the extent that it holds funds exclusively for a charitable purpose; and

(c) a trust that had both charitable and noncharitable interests, after all noncharitable interests have terminated.

(7) (a) "Institutional fund" means a fund held by an institution exclusively for charitable purposes.

(b) "Institutional fund" does not include:

(i) program-related assets;

(ii) a fund held for an institution by a trustee that is not an institution;

(iii) a fund in which a beneficiary that is not an institution has an interest, other than an interest that could arise upon violation or failure of the purposes of the fund; or

(iv) operating funds.

(8) "Manager" means either:

(a) the state treasurer; or

(b) a higher education institution that accepts the responsibility for the management of institutional funds of a different higher education institution.

(9) "Operating funds" means money used for the general operation of a higher education institution that is received by the higher education institution from:

(a) state appropriations;

(b) government contracts;

(c) government grants; or

(d) tuition and fees collected from students.

(10) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, instrumentality, or any other legal or commercial entity.

(11) "Program-related asset" means an asset held by an institution primarily to accomplish a charitable purpose of the institution and not primarily for appreciation or the production of income.

(12) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

Amended by Chapter 342, 2011 General Session

51-8-201. General standard of care.

(1) Subject to the intent of a donor expressed in a gift instrument, an institution, in managing and investing an institutional fund, shall consider the charitable purposes of the institution and the purposes of the institutional fund.

(2) In addition to complying with the duty of loyalty imposed by law other than this chapter, each person responsible for managing and investing an institutional fund shall manage and invest the fund in good faith and with the care an ordinarily prudent person in a like position would exercise under similar circumstances.

Enacted by Chapter 59, 2007 General Session

51-8-202. Standards for managing and investing an institutional fund.

(1) In managing and investing an institutional fund, an institution:

(a) may incur only costs that are appropriate and reasonable in relation to the assets, the purposes of the institution, and the skills available to the institution; and

(b) shall make a reasonable effort to verify facts relevant to the management and investment of the fund.

(2) An institution may pool two or more institutional funds for purposes of management and investment.

(3) Except as otherwise provided by a gift instrument, the following rules apply:

(a) In managing and investing an institutional fund, the following factors, if relevant, must be considered:

(i) general economic conditions;

(ii) the possible effect of inflation or deflation;

(iii) the expected tax consequences, if any, of investment decisions or strategies;

(iv) the role that each investment or course of action plays within the overall investment portfolio of the fund;

(v) the expected total return from income and the appreciation of investments;

(vi) other resources of the institution;

(vii) the needs of the institution and the fund to make distributions and to preserve capital; and

(viii) an asset's special relationship or special value, if any, to the charitable purposes of the institution.

(b) Management and investment decisions about an individual asset must be made not in isolation but rather in the context of the institutional fund's portfolio of investments as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the fund and to the institution.

(c) Except as otherwise provided by law other than this chapter, an institution may invest in any kind of property or type of investment consistent with the standards of this section.

(d) An institution shall diversify the investments of an institutional fund unless the institution reasonably determines that, because of special circumstances, the purposes of the fund are better served without diversification.

(e) Within a reasonable time after receiving property, an institution shall make and implement decisions concerning the retention or disposition of the property or to

rebalance a portfolio, in order to bring the institutional fund into compliance with the purposes, terms, distribution requirements, and other circumstances of the institution and the requirements of this chapter.

(f) A person who has special skills or expertise, or is selected in reliance upon the person's representation that the person has special skills or expertise, has a duty to use those special skills or that expertise in managing and investing institutional funds.

Enacted by Chapter 59, 2007 General Session

51-8-301. Appropriation for expenditure or accumulation of endowment fund.

(1) (a) Subject to the intent of a donor expressed in a gift instrument and to Subsection (4), an institution may appropriate for expenditure or accumulate so much of an endowment fund as the institution determines to be prudent for the uses, benefits, purposes, and duration for which the endowment fund is established.

(b) Unless stated otherwise in a gift instrument, the assets in an endowment fund are donor-restricted assets until appropriated for expenditure by the institution.

(c) In making a determination to appropriate or accumulate, the institution shall act in good faith, with the care that an ordinarily prudent person in a like position would exercise under similar circumstances, and shall consider, if relevant, the following factors:

- (i) the duration and preservation of the endowment fund;
- (ii) the purposes of the institution and the endowment fund;
- (iii) general economic conditions;
- (iv) the possible effect of inflation or deflation;
- (v) the expected total return from income and the appreciation of investments;
- (vi) other resources of the institution; and
- (vii) the investment policy of the institution.

(2) To limit the authority to appropriate for expenditure or accumulate under Subsection (1), a gift instrument must specifically state the limitation.

(3) Terms in a gift instrument designating a gift as an endowment, or a direction or authorization in the gift instrument to use only "income," "interest," "dividends," or "rents, issues, or profits," or "to preserve the principal intact," or similar words:

(a) create an endowment fund of permanent duration unless other language in the gift instrument limits the duration or purpose of the fund; and

(b) do not otherwise limit the authority to appropriate for expenditure or accumulate under Subsection (1).

Enacted by Chapter 59, 2007 General Session

51-8-302. Transferring management of endowment funds.

(1) A higher education institution may only transfer the management of any institutional fund to a manager if the transferring higher education institution:

- (a) retains sufficient funds to cover its cash requirements; and
- (b) continues to be responsible for the proper collection, deposit, and disbursement of the institutional fund in the manner provided by law.

(2) The institutional funds transferred as provided in this section are subject to all applicable provisions of this chapter and are under the jurisdiction of the manager until the transferring higher education institution withdraws these institutional funds from the manager.

(3) A higher education institution may withdraw all or any part of the institutional funds transferred to the manager, subject to any rules established by the manager governing notice or limits on the amount of institutional funds that may be withdrawn.

Enacted by Chapter 59, 2007 General Session

51-8-303. Requirements of member institutions of the state system of higher education.

(1) The State Board of Regents shall:

- (a) establish asset allocations for the institutional funds;
- (b) in consultation with the commissioner of higher education, establish guidelines for investing the funds; and
- (c) establish a written policy governing conflicts of interest.

(2) (a) A higher education institution may not invest its institutional funds in violation of the State Board of Regents' guidelines unless the State Board of Regents approves an investment policy that has been adopted by the higher education institution's board of trustees.

(b) A higher education institution and its employees shall comply with the State Board of Regents' conflict of interest requirements unless the State Board of Regents approves the conflict of interest policy that has been adopted by the higher education institution's board of trustees.

(3) (a) The board of trustees of a higher education institution may adopt:

- (i) an investment policy to govern the investment of the higher education institution's institutional funds; and
- (ii) a conflict of interest policy.

(b) The investment policy shall:

- (i) define the groups, and the responsibilities of those groups, that must be involved with investing the institutional funds;
 - (ii) ensure that the groups defined under Subsection (3)(b)(i) at least include the board of trustees, an investment committee, institutional staff, and a custodian bank;
 - (iii) create an investment committee that includes not more than two members of the board of trustees and no less than two independent investment management professionals;
 - (iv) determine an appropriate risk level for the institutional funds;
 - (v) establish allocation ranges for asset classes considered suitable for the institutional funds;
 - (vi) determine prudent diversification of the institutional funds; and
 - (vii) establish performance objectives and a regular review process.
- (c) Each higher education institution that adopts an investment policy, a conflict of interest policy, or both, shall submit the policy, and any subsequent amendments, to the State Board of Regents for its approval.

(4) Each higher education institution shall make monthly reports detailing the

deposit and investment of funds in its custody or control to:

- (a) its board of trustees; and
- (b) the State Board of Regents.

(5) The state auditor may conduct or cause to be conducted an annual audit of the investment program of each higher education institution.

(6) The State Board of Regents shall submit an annual report to the governor and the Legislature summarizing all investments by higher education institutions under its jurisdiction.

Enacted by Chapter 59, 2007 General Session

51-8-304. Rebuttable presumption of imprudence -- Scope.

(1) The appropriation for expenditure in any year of an amount greater than seven percent of the fair market value of an endowment fund, calculated on the basis of market values determined at least quarterly and averaged over a period of not less than three years immediately preceding the year in which the appropriation for expenditure was made, creates a rebuttable presumption of imprudence.

(2) For an endowment fund in existence for fewer than three years, the fair market value of the endowment fund shall be calculated for the period of time the endowment fund has been in existence.

(3) This section does not:

- (a) apply to an appropriation for expenditure permitted under law other than this chapter or the gift instrument; or
- (b) create a presumption of prudence for an appropriation for expenditure of an amount less than or equal to seven percent of the fair market value of the endowment fund.

Enacted by Chapter 59, 2007 General Session

51-8-401. Delegating management and investment functions.

(1) (a) Subject to any specific limitation set forth in a gift instrument or in law other than this chapter, an institution may delegate to an external agent the management and investment of an institutional fund to the extent that an institution could prudently delegate under the circumstances.

(b) An institution shall act in good faith, with the care that an ordinarily prudent person in a like position would exercise under similar circumstances, in:

- (i) selecting an agent;
- (ii) establishing the scope and terms of the delegation, consistent with the purposes of the institution and the institutional fund; and
- (iii) periodically reviewing the agent's actions in order to monitor the agent's performance and compliance with the scope and terms of the delegation.

(2) In performing a delegated function, an agent owes a duty to the institution to exercise reasonable care to comply with the scope and terms of the delegation.

(3) An institution that complies with Subsection (1) is not liable for the decisions or actions of an agent to which the function was delegated.

(4) By accepting delegation of a management or investment function from an

institution that is subject to the laws of this state, an agent submits to the jurisdiction of the courts of this state in all proceedings arising from or related to the delegation or the performance of the delegated function.

(5) An institution may delegate management and investment functions to its committees, officers, or employees as authorized by law other than this chapter.

Enacted by Chapter 59, 2007 General Session

51-8-501. Process to release or modify restrictions on management, investment, or purpose.

(1) (a) With the donor's consent in a record, an institution may release or modify, in whole or in part, a restriction contained in a gift instrument on the management, investment, or purpose of an institutional fund.

(b) A release or modification may not allow a fund to be used for a purpose other than a charitable purpose of the institution.

(2) (a) If a restriction contained in a gift instrument on the management or investment of an institutional fund becomes impracticable or wasteful or impairs the management or investment of the fund, or if because of circumstances not anticipated by the donor a modification of a restriction will further the purposes of the fund, the court, upon application of the institution, may modify the restriction.

(b) The institution shall notify the attorney general, who must be given an opportunity to be heard.

(c) To the extent practicable, any modification must be made in accordance with the donor's probable intention.

(3) (a) If a particular charitable purpose or a restriction contained in a gift instrument on the use of an institutional fund becomes unlawful, impracticable, impossible to achieve, or wasteful, the court, upon application of an institution, may modify the purpose of the fund or the restriction on the use of the fund in a manner consistent with the charitable purposes expressed in the gift instrument.

(b) The institution shall notify the attorney general, who must be given an opportunity to be heard.

(4) If an institution determines that a restriction contained in a gift instrument on the management, investment, or purpose of an institutional fund is unlawful, impracticable, impossible to achieve, or wasteful, the institution, 60 days after notification to the attorney general, may release or modify the restriction, in whole or part, if:

(a) the institutional fund subject to the restriction has a total value of less than \$25,000;

(b) more than 20 years have elapsed since the fund was established; and

(c) the institution uses the property in a manner the institution reasonably determines to be consistent with the charitable purposes expressed in the gift instrument.

Enacted by Chapter 59, 2007 General Session

51-8-601. Reviewing compliance.

Compliance with this chapter is determined in light of the facts and circumstances existing at the time a decision is made or action is taken, and not by hindsight.

Enacted by Chapter 59, 2007 General Session

51-8-602. Application to existing institutional funds.

(1) This chapter applies to institutional funds existing on or established after April 30, 2007.

(2) As applied to institutional funds existing on April 30, 2007, this chapter governs only decisions made or actions taken after that date.

Enacted by Chapter 59, 2007 General Session

51-8-603. Relation to Electronic Signatures in Global and National Commerce Act.

This chapter modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit, or supersede Section 101 of that act, 15 U.S.C. Section 7001(a), or authorize electronic delivery of any of the notices described in Section 103 of that act, 15 U.S.C. Section 7003(b).

Enacted by Chapter 59, 2007 General Session

51-8-604. Uniformity of application and construction.

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Enacted by Chapter 59, 2007 General Session

51-9-101. Title.

This chapter is known as the "Funds and Accounts Act."

Enacted by Chapter 382, 2008 General Session

51-9-201. Creation of Tobacco Settlement Restricted Account.

(1) There is created within the General Fund a restricted account known as the "Tobacco Settlement Restricted Account."

(2) The account shall earn interest.

(3) The account shall consist of:

(a) on and after July 1, 2007, 60% of all funds of every kind that are received by the state that are related to the settlement agreement that the state entered into with leading tobacco manufacturers on November 23, 1998; and

(b) interest earned on the account.

(4) To the extent that funds will be available for appropriation in a given fiscal

year, those funds shall be appropriated from the account in the following order:

(a) \$66,600 to the Office of the Attorney General for ongoing enforcement and defense of the Tobacco Settlement Agreement;

(b) \$18,500 to the State Tax Commission for ongoing enforcement of business compliance with the Tobacco Tax Settlement Agreement;

(c) \$10,452,900 to the Department of Health for:

(i) children in the Medicaid program created in Title 26, Chapter 18, Medical Assistance Act, and the Children's Health Insurance Program created in Section 26-40-103; and

(ii) for restoration of dental benefits in the Children's Health Insurance Program;

(d) \$3,847,100 to the Department of Health for alcohol, tobacco, and other drug prevention, reduction, cessation, and control programs that promote unified messages and make use of media outlets, including radio, newspaper, billboards, and television, and with a preference in funding given to tobacco-related programs;

(e) \$193,700 to the Administrative Office of the Courts and \$2,325,400 to the Department of Human Services for the statewide expansion of the drug court program;

(f) \$4,000,000 to the State Board of Regents for the University of Utah Health Sciences Center to benefit the health and well-being of Utah citizens through in-state research, treatment, and educational activities; and

(g) any remaining funds as directed by the Legislature through appropriation.

Amended by Chapter 96, 2014 General Session

51-9-202. Permanent state trust fund.

(1) Until July 1, 2003, 50% of all funds of every kind that are received by the state that are related to the settlement agreement that the state entered into with leading tobacco manufacturers on November 23, 1998, shall be deposited into the permanent state trust fund created by and operated under Utah Constitution Article XXII, Section 4.

(2) On and after July 1, 2003 and until July 1, 2004 20% of the funds of any kind received by the state that are related to the settlement agreement that the state entered into with leading tobacco manufacturers shall be deposited into the permanent state trust fund created by and operated under Utah Constitution Article XXII, Section 4.

(3) On and after July 1, 2004 and until July 1, 2005, 30% of all funds of any kind received by the state that are related to the settlement agreement that the state entered into with leading tobacco manufacturers shall be deposited into the General Fund Budget Reserve Account created in Section 63J-1-312.

(4) On and after July 1, 2005 and until July 1, 2007, 25% of all funds of any kind received by the state that are related to the settlement agreement that the state entered into with leading tobacco manufacturers shall be deposited into the permanent state trust fund created by and operated under Utah Constitution Article XXII, Section 4.

(5) On and after July 1, 2007, 40% of all funds of every kind that are received by the state that are related to the settlement agreement that the state entered into with leading tobacco manufacturers on November 23, 1998, shall be deposited into the General Fund and the remaining funds deposited as directed.

(6) Funds in the permanent state trust fund shall be deposited or invested

pursuant to Chapter 7b, Investment of Permanent State Trust Fund Money.

(7) (a) In accordance with Utah Constitution Article XXII, Section 4, the interest and dividends earned annually from the permanent state trust fund shall be deposited in the General Fund. There shall be transferred on an ongoing basis from the General Fund to the permanent state trust fund created under Utah Constitution Article XXII, Section 4, an amount equal to 50% of the interest and dividends earned annually from the permanent state trust fund. The amount transferred into the fund under this Subsection (7)(a) shall be treated as principal.

(b) Any annual interest or dividends earned from the permanent state trust fund that remain in the General Fund after Subsection (7)(a) may be appropriated by the Legislature.

(c) Any realized or unrealized gains or losses on investments in the permanent state trust fund shall remain in the permanent state trust fund.

(8) This section does not apply to funds deposited under Chapter 9, Part 3, Infrastructure and Economic Diversification Investment Account and Deposit of Certain Severance Taxes into Permanent State Trust Fund Act, into the permanent state trust fund.

Amended by Chapter 211, 2013 General Session

51-9-203. Requirements for tobacco programs.

(1) To be eligible to receive funding under this part for a tobacco prevention, reduction, cessation, or control program, an organization, whether private, governmental, or quasi-governmental, shall:

(a) submit a request to the Department of Health containing the following information:

(i) for media campaigns to prevent or reduce smoking, the request shall demonstrate sound management and periodic evaluation of the campaign's relevance to the intended audience, particularly in campaigns directed toward youth, including audience awareness of the campaign and recollection of the main message;

(ii) for school-based education programs to prevent and reduce youth smoking, the request shall describe how the program will be effective in preventing and reducing youth smoking;

(iii) for community-based programs to prevent and reduce smoking, the request shall demonstrate that the proposed program:

(A) has a comprehensive strategy with a clear mission and goals;

(B) provides for committed, caring, and professional leadership; and

(C) if directed toward youth:

(I) offers youth-centered activities in youth accessible facilities;

(II) is culturally sensitive, inclusive, and diverse;

(III) involves youth in the planning, delivery, and evaluation of services that affect them; and

(IV) offers a positive focus that is inclusive of all youth; and

(iv) for enforcement, control, and compliance program, the request shall demonstrate that the proposed program can reasonably be expected to reduce the extent to which tobacco products are available to individuals under the age of 19;

(b) agree, by contract, to file an annual written report with the Department of Health. The report shall contain the following:

- (i) the amount funded;
- (ii) the amount expended;
- (iii) a description of the program or campaign and the number of adults and youth who participated;
- (iv) specific elements of the program or campaign meeting the applicable criteria set forth in Subsection (1)(a); and
- (v) a statement concerning the success and effectiveness of the program or campaign;

(c) agree, by contract, to not use any funds received under this part directly or indirectly, to:

- (i) engage in any lobbying or political activity, including the support of, or opposition to, candidates, ballot questions, referenda, or similar activities; or
- (ii) engage in litigation with any tobacco manufacturer, retailer, or distributor, except to enforce:

- (A) the provisions of the Master Settlement Agreement;
- (B) Title 26, Chapter 38, Utah Clean Air Act;
- (C) Title 26, Chapter 42, Civil Penalties for Tobacco Sales to Underaged Persons; and
- (D) Title 77, Chapter 39, Sale of Tobacco and Alcohol to Underaged Persons; and

(d) agree, by contract, to repay the funds provided under this part if the organization:

- (i) fails to file a timely report as required by Subsection (1)(b); or
 - (ii) uses any portion of the funds in violation of Subsection (1)(c).
- (2) The Department of Health shall review and evaluate the success and effectiveness of any program or campaign that receives funding pursuant to a request submitted under Subsection (1). The review and evaluation:
- (a) shall include a comparison of annual smoking trends;
 - (b) may be conducted by an independent evaluator; and
 - (c) may be paid for by funds appropriated from the account for that purpose.
- (3) The Department of Health shall annually report to the Social Services Appropriations Subcommittee on the reviews conducted pursuant to Subsection (2).
- (4) An organization that fails to comply with the contract requirements set forth in Subsection (1) shall:

- (a) repay the state as provided in Subsection (1)(d); and
- (b) be disqualified from receiving funds under this part in any subsequent fiscal year.

(5) The attorney general shall be responsible for recovering funds that are required to be repaid to the state under this section.

(6) Nothing in this section may be construed as applying to funds that are not appropriated under this part.

Amended by Chapter 242, 2012 General Session

51-9-301. Title.

This part is known as the "Infrastructure and Economic Diversification Investment Account and Deposit of Certain Severance Taxes into Permanent State Trust Fund Act."

Amended by Chapter 219, 2010 General Session

51-9-302. Definitions.

As used in this part:

(1) "Infrastructure and Economic Diversification Investment Account" means the Infrastructure and Economic Diversification Investment Account created in Section 51-9-303.

(2) "Permanent state trust fund" means the permanent state trust fund created under Utah Constitution Article XXII, Section 4.

Amended by Chapter 219, 2010 General Session

51-9-303. Creation of Infrastructure and Economic Diversification Investment Account.

(1) (a) There is created a restricted account within the General Fund known as the "Infrastructure and Economic Diversification Investment Account."

(b) The Infrastructure and Economic Diversification Investment Account shall consist of:

- (i) all money credited to the account under Section 51-9-305;
- (ii) appropriations from the Legislature; and
- (iii) grants from private foundations.

(2) (a) The state treasurer shall invest money in the account according to Title 51, Chapter 7, State Money Management Act.

(b) The Division of Finance shall deposit interest or other earnings derived from investment of account money into the General Fund.

(3) The Legislature may appropriate money from the Infrastructure and Economic Diversification Investment Account for infrastructure and economic diversification investment projects.

(4) At least 25% of the money appropriated in accordance with Subsection (3) shall be used for the following projects within areas of the state that produced the severance tax revenues:

- (a) capital and infrastructure development; and
- (b) economic diversification investment.

Amended by Chapter 141, 2008 General Session

Amended by Chapter 216, 2008 General Session

Renumbered and Amended by Chapter 382, 2008 General Session

51-9-305. Deposit and credit of certain severance tax revenue.

(1) As used in this section, "aggregate annual revenue" means the aggregate annual revenue collected in a fiscal year from the taxes imposed under Title 59,

Chapter 5, Severance Tax on Oil, Gas, and Mining, after subtracting the amounts required to be distributed under Sections 59-5-116 and 59-5-119.

(2) After making the deposits of oil and gas severance tax revenue as required under Sections 59-5-116 and 59-5-119, the Division of Finance shall make the credit required under Subsection (3).

(3) Beginning on July 1, 2016, the Division of Finance shall credit to the permanent state trust fund the following aggregate annual revenue:

- (a) 25% of the first \$50,000,000 of aggregate annual revenue;
- (b) 50% of the next \$50,000,000 of aggregate annual revenue; and
- (c) 75% of the aggregate annual revenue that exceeds \$100,000,000.

(4) The state treasurer shall invest and separately account for the earnings on funds that are credited to the permanent state trust fund under this section.

(5) (a) In accordance with Utah Constitution Article XXII, Section 4, the interest and dividends earned annually on revenue from severance taxes that are credited to the permanent state trust fund shall be credited to the General Fund.

(b) Interest and dividends earned on revenue from severance taxes that are credited to the General Fund pursuant to Subsection (5)(a) shall be credited to the Infrastructure and Economic Diversification Investment Account created in Section 51-9-303.

Amended by Chapter 241, 2014 General Session

51-9-401. Surcharge -- Application and exemptions.

(1) (a) A surcharge shall be paid on all criminal fines, penalties, and forfeitures imposed by the courts.

(b) The surcharge shall be:

(i) 90% upon conviction of a:

(A) felony;

(B) class A misdemeanor;

(C) violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving; or

(D) class B misdemeanor not classified within Title 41, Motor Vehicles, including violation of comparable county or municipal ordinances; or

(ii) 35% upon conviction of any other offense, including violation of county or municipal ordinances not subject to the 90% surcharge.

(c) The Division of Finance shall allocate the collected 90% surcharge in Subsection (1)(b)(i) in the following order:

(i) the first \$30,000 to the General Fund;

(ii) the next 4.5% to the Law Enforcement Services Account established in Section 51-9-412; and

(iii) the remainder as prescribed in Sections 51-9-403 through 51-9-411.

(2) The surcharge may not be imposed:

(a) upon nonmoving traffic violations;

(b) upon court orders when the offender is ordered to perform compensatory service work in lieu of paying a fine; and

(c) upon penalties assessed by the juvenile court as part of the nonjudicial

adjustment of a case under Section 78A-6-602.

(3) (a) The surcharge and the exceptions under Subsections (1) and (2) also apply to all fines, penalties, and forfeitures imposed on juveniles for conduct that would be criminal if committed by an adult.

(b) However, the surcharge does not include amounts assessed or collected separately by juvenile courts for the Juvenile Restitution Account, which is independent of this part and does not affect the imposition or collection of the surcharge.

(4) The surcharge under this section shall be imposed in addition to the fine charged for a civil or criminal offense, and no reduction may be made in the fine charged due to the surcharge imposition.

(5) Fees, assessments, and surcharges related to criminal or traffic offenses shall be authorized and managed by this part rather than attached to particular offenses.

Amended by Chapter 402, 2010 General Session

51-9-402. Division of collected money retained by state treasurer and local governmental collecting entity -- Purpose of surcharge -- Allocation of collections -- Financial information.

(1) The amount of the surcharge imposed under this part by courts of record shall be collected before any fine and deposited with the state treasurer.

(2) The amount of the surcharge and the amount of criminal fines, penalties, and forfeitures imposed under this part by courts not of record shall be collected concurrently.

(a) As money is collected on criminal fines, penalties, and forfeitures subject to the 90% surcharge, the money shall be divided pro rata so that the local governmental collecting entity retains 53% of the collected money and the state retains 47% of the collected money.

(b) As money is collected on criminal fines, penalties, and forfeitures subject to the 35% surcharge, the money shall be divided pro rata so that the local governmental collecting entity retains 74% of the collected money and the state retains 26% of the collected money.

(c) The court shall deposit with the state treasurer the surcharge portion of all money as it is collected.

(3) Courts of record, courts not of record, and administrative traffic proceedings shall collect financial information to determine:

(a) the total number of cases in which:

(i) a final judgment has been rendered;

(ii) surcharges and fines are paid by partial or installment payment; and

(iii) the judgment is fulfilled by an alternative method upon the court's order; and

(b) the total dollar amounts of surcharges owed to the state and fines owed to the state and county or municipality, including:

(i) waived surcharges;

(ii) uncollected surcharges; and

(iii) collected surcharges.

(4) The courts of record, courts not of record, and administrative traffic

proceedings shall report all collected financial information monthly to the Administrative Office of the Courts. The collected information shall be categorized by cases subject to the 90% and 35% surcharge.

(5) The purpose of the surcharge is to finance the trust funds and support accounts as provided in this part.

(6) (a) From the surcharge, the Division of Finance shall allocate in the manner and for the purposes described in Sections 51-9-403 through 51-9-411.

(b) Allocations shall be made on a fiscal year basis.

(7) The provisions of this section and Section 51-9-401 may not impact the distribution and allocation of fines and forfeitures imposed in accordance with Sections 23-14-13, 78A-5-110, and 78A-7-120.

Amended by Chapter 342, 2011 General Session

51-9-403. EMS share of surcharge -- Accounting.

(1) The Division of Finance shall allocate 14% of the collected surcharge established in Section 51-9-401, but not to exceed the amount appropriated by the Legislature, to the Emergency Medical Services (EMS) Grants Program Account under Section 26-8a-207.

(2) The amount shall be recorded by the Department of Health as a dedicated credit.

Renumbered and Amended by Chapter 382, 2008 General Session

51-9-404. Crime Victims Reparations Fund -- Public Safety Support Account -- Distribution of surcharge amounts.

(1) In this section:

(a) "Reparation fund" means the Crime Victim Reparations Fund.

(b) "Safety account" means the Public Safety Support Account.

(2) (a) There is created an expendable special revenue fund known as the "Crime Victim Reparations Fund" to be administered and distributed as provided in this part by the Utah Office for Victims of Crime under Title 63M, Chapter 7, Part 5, Utah Office for Victims of Crime, in cooperation with the Division of Finance.

(b) Money deposited in this fund is for victim reparations, other victim services, and, as appropriated, for administrative costs of the Office for Victims of Crime in Title 63M, Chapter 7, Part 5.

(3) (a) There is created a restricted account in the General Fund known as the "Public Safety Support Account" to be administered and distributed by the Department of Public Safety in cooperation with the Division of Finance as provided in this part.

(b) Money deposited in this account shall be appropriated to:

(i) the Division of Peace Officer Standards and Training (POST) as described in Title 53, Chapter 6, Peace Officer Standards and Training Act; and

(ii) the Office of the Attorney General for the support of the Utah Prosecution Council established in Title 67, Chapter 5a, and the fulfillment of the council's duties.

(4) The Division of Finance shall allocate from the collected surcharge established in Section 51-9-401:

- (a) 35% to the Crime Victim Reparations Fund;
- (b) 18.5% to the safety account for POST, but not to exceed the amount appropriated by the Legislature; and
- (c) 3% to the safety account for support of the Utah Prosecution Council, but not to exceed the amount appropriated by the Legislature.

(5) (a) In addition to the funding provided by other sections of this part, a percentage of the income earned by inmates working for correctional industries in a federally certified private sector/prison industries enhancement program shall be deposited in the Crime Victim Reparations Fund.

(b) The percentage of income deducted from inmate pay under Subsection (5)(a) shall be determined by the executive director of the Department of Corrections in accordance with the requirements of the private sector/prison industries enhancement program.

(6) (a) In addition to other money collected from the surcharge, judges are encouraged to, and may in their discretion, impose additional reparations to be paid into the Crime Victim Reparations Fund by convicted criminals.

(b) The additional discretionary reparations may not exceed the statutory maximum fine permitted by Title 76, Utah Criminal Code, for that offense.

Amended by Chapter 56, 2014 General Session

51-9-405. Substance Abuse Prevention Account established -- Funding -- Uses.

(1) There is created a restricted account within the General Fund known as the Substance Abuse Prevention Account.

(2) (a) The Division of Finance shall allocate to the Substance Abuse Prevention Account from the collected surcharge established in Section 51-9-401:

(i) 2.5% for the juvenile court, but not to exceed the amount appropriated by the Legislature; and

(ii) 2.5% for the State Office of Education, but not to exceed the amount appropriated by the Legislature.

(b) The juvenile court shall use the allocation to pay for compensatory service programs required by Subsection 78A-6-117(2)(m).

(c) The State Office of Education shall use the allocation in public school programs for:

- (i) substance abuse prevention and education;
- (ii) substance abuse prevention training for teachers and administrators; and
- (iii) district and school programs to supplement, not supplant, existing local prevention efforts in cooperation with local substance abuse authorities.

Amended by Chapter 356, 2009 General Session

51-9-406. Victims of Domestic Violence Services Account established -- Funding -- Uses.

(1) There is created a restricted account in the General Fund known as the Victims of Domestic Violence Services Account.

(2) (a) The Division of Finance shall allocate to the Victims of Domestic Violence Services Account from the collected surcharge established in Section 51-9-401:

(i) 4% for the Division for Domestic Violence Services, but not to exceed the amount appropriated by the Legislature; and

(ii) .5% for the Office of the Attorney General, but not to exceed the amount appropriated by the Legislature.

(b) The attorney general shall use the allocation for training municipal and county attorneys in the prosecution of domestic violence offenses.

Renumbered and Amended by Chapter 382, 2008 General Session

51-9-407. Intoxicated Driver Rehabilitation Account share of surcharge.

The Division of Finance shall allocate 7.5% of the collected surcharge established in Section 51-9-401, but not to exceed the amount appropriated by the Legislature, to the Intoxicated Driver Rehabilitation Account created in Section 62A-15-502.5.

Amended by Chapter 278, 2010 General Session

51-9-408. Children's Legal Defense Account.

(1) There is created a restricted account within the General Fund known as the Children's Legal Defense Account.

(2) The purpose of the Children's Legal Defense Account is to provide for programs that protect and defend the rights, safety, and quality of life of children.

(3) The Legislature shall appropriate money from the account for the administrative and related costs of the following programs:

(a) implementing the Mandatory Educational Course on Children's Needs for Divorcing Parents relating to the effects of divorce on children as provided in Sections 30-3-4, 30-3-10.3, 30-3-11.3, and 30-3-15.3, and the Mediation Program - Child Custody or Parent-time;

(b) implementing the use of guardians ad litem as provided in Sections 78A-2-703, 78A-2-705, 78A-6-902, and 78B-3-102; the training of attorney guardians ad litem and volunteers as provided in Section 78A-6-902; and termination of parental rights as provided in Sections 78A-6-117 and 78A-6-118, and Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act. This account may not be used to supplant funding for the guardian ad litem program in the juvenile court as provided in Section 78A-6-902;

(c) implementing and administering the Expedited Parent-time Enforcement Program as provided in Section 30-3-38; and

(d) implementing and administering the Divorce Education for Children Program.

(4) The following withheld fees shall be allocated only to the Children's Legal Defense Account and used only for the purposes provided in Subsections (3)(a) through (d):

(a) the additional \$10 fee withheld on every marriage license issued in the state of Utah as provided in Section 17-16-21; and

(b) a fee of \$4 shall be withheld from the existing civil filing fee collected on any

complaint, affidavit, or petition in a civil, probate, or adoption matter in every court of record.

(5) The Division of Finance shall allocate the money described in Subsection (4) from the General Fund to the Children's Legal Defense Account.

(6) Any funds in excess of \$200,000 remaining in the restricted account as of June 30 of any fiscal year shall lapse into the General Fund.

Amended by Chapter 267, 2014 General Session

51-9-409. Guardian Ad Litem Services Account established -- Funding -- Uses.

(1) (a) There is created in the General Fund a restricted account known as the Guardian Ad Litem Services Account, for the purpose of funding the Office of Guardian Ad Litem, in accordance with the provisions of Sections 78A-6-901 and 78A-6-902.

(b) The account shall be funded by:

(i) the donation described in Subsection 41-1a-422(1)(a)(i)(F); and

(ii) the amount allocated to the account as provided in Subsections (2) and (3).

(2) Except as provided in Subsection (3), the Division of Finance shall allocate 1.75% of the collected surcharge established in Section 51-9-401 to the Guardian Ad Litem Services Account.

(3) The amount allocated under Subsection (2) may not exceed the amount appropriated to the Guardian Ad Litem Services Account by the Legislature.

Amended by Chapter 303, 2011 General Session

51-9-410. Statewide Warrant Operations Account -- Share of surcharge -- Use.

(1) There is created a restricted account within the General Fund known as the Statewide Warrant Operations Account.

(2) The Division of Finance shall allocate 2.5% of the collected surcharge established under Section 51-9-401, but not to exceed the amount appropriated by the Legislature, to this account.

(3) The Legislature may appropriate money from the restricted account to the Department of Public Safety to pay for statewide warrant system costs incurred under Section 53-10-208.

Renumbered and Amended by Chapter 382, 2008 General Session

51-9-411. Law Enforcement Operations Account -- Share of surcharge -- Uses.

(1) As used in this section:

(a) "Account" means the Law Enforcement Operations Account.

(b) "Commission" means the Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(c) "Law enforcement agency" means a state or local law enforcement agency.

(d) "Other appropriate agency" means a state or local government agency, or a

nonprofit organization, that works to prevent illegal drug activity and enforce laws regarding illegal drug activity and related criminal activity by:

(i) programs, including education, prevention, treatment, and research programs; and

(ii) enforcement of laws regarding illegal drugs.

(2) There is created a restricted account within the General Fund known as the Law Enforcement Operations Account.

(3) (a) The Division of Finance shall allocate the balance of the collected surcharge under Section 51-9-401 that is not allocated under Title 51, Chapter 9, Part 4, Criminal Conviction Surcharge Allocation, to the account, to be appropriated by the Legislature.

(b) Money in the account shall be appropriated to the commission for implementing law enforcement operations and programs related to reducing illegal drug activity and related criminal activity as listed in Subsection (5).

(c) The state treasurer shall invest money in the account according to Title 51, Chapter 7, State Money Management Act.

(d) The Division of Finance shall deposit interest or other earnings derived from investment of account money into the General Fund.

(4) (a) The commission shall allocate grants of funds from the account for the purposes under Subsection (5) to state, local, or multijurisdictional law enforcement agencies and other appropriate agencies.

(b) The grants shall be made by an application process established by the commission in accordance with Subsection (6).

(5) (a) The first priority of the commission is to annually allocate not more than \$2,500,000, depending upon funding available from other sources, to directly fund the operational costs of state and local law enforcement agencies' drug or crime task forces, including multijurisdictional task forces.

(b) The second priority of the commission is to allocate grants for specified law enforcement agency functions and other agency functions as the commission finds appropriate to more effectively reduce illegal drug activity and related criminal activity, including providing education, prevention, treatment, and research programs.

(6) (a) In allocating grants and determining the amount of the grants, the commission shall consider:

(i) the demonstrated ability of the agency to appropriately use the grant to implement the proposed functions and how this function or task force will add to the law enforcement agency's current efforts to reduce illegal drug activity and related criminal activity; and

(ii) the agency's cooperation with other state and local agencies and task forces.

(b) Agencies qualify for a grant only if they demonstrate compliance with all reporting and policy requirements applicable under this section and under Title 63M, Chapter 7, Criminal Justice and Substance Abuse, in order to qualify as a potential grant recipient.

(7) Recipient agencies may only use grant money after approval or appropriation by the agency's governing body, and a determination that the grant money is nonlapsing.

(8) A recipient law enforcement agency may use funds granted under this

section only for the purposes stated by the commission in the grant.

(9) For each fiscal year, any law enforcement agency that receives a grant from the commission under this section shall prepare, and file with the commission and the state auditor, a report in a form specified by the commission. The report shall include the following regarding each grant:

- (a) the agency's name;
- (b) the amount of the grant;
- (c) the date of the grant;
- (d) how the grant has been used; and
- (e) a statement signed by both the agency's or political subdivision's executive officer or designee and by the agency's legal counsel, that all grant funds were used for law enforcement operations and programs approved by the commission and that relate to reducing illegal drug activity and related criminal activity, as specified in the grant.

(10) The commission shall report in writing to the legislative Law Enforcement and Criminal Justice Interim Committee annually regarding the grants allocated under this section, including the amounts and uses of the grants.

Amended by Chapter 342, 2011 General Session

51-9-412. Law Enforcement Services Account -- Funding -- Uses.

- (1) As used in this section:
 - (a) "Account" means the Law Enforcement Services Account.
 - (b) "Commission" means the Commission on Criminal and Juvenile Justice created in Section 63M-7-201.
 - (c) "Halfway house" means a facility that houses parolees upon release from prison or houses probationers who have violated the terms of their probation.
 - (d) "Law enforcement agency" means a local law enforcement agency.
 - (e) "Parole violator center" means a facility that houses parolees who have violated the conditions of their parole agreement.
- (2) There is created a restricted account within the General Fund known as the "Law Enforcement Services Account."
- (3) (a) The Division of Finance shall allocate funds from the collected surcharge in accordance with Subsection 51-9-401(1)(c) to the account, but not to exceed the amount appropriated by the Legislature.
 - (b) Money in the account shall be appropriated to the commission to administer and distribute to law enforcement agencies providing services directly to areas with halfway houses or parole violator centers, or both.
- (4) The commission shall allocate funds from the account to local law enforcement agencies on a pro-rata basis determined by:
 - (a) the average daily number of occupied beds in a halfway house in each agency's jurisdiction for increased enforcement in areas with halfway houses;
 - (b) the average daily number of occupied beds in a parole violator center in each agency's jurisdiction; or
 - (c) both Subsections (4)(a) and (b).
- (5) A law enforcement agency may use funds received under this section only for the purposes stated in this section.

(6) For each fiscal year, any law enforcement agency that receives funds from the commission under this section shall prepare, and file with the commission and the state auditor, a report in a form specified by the commission. The report shall include the following:

- (a) the agency's name;
- (b) the amount received;
- (c) how the funds were used, including the impact on crime reduction efforts in areas with halfway houses or parole violator centers, or both; and
- (d) a statement signed by both the agency's or political subdivision's executive officer or designee and by the agency's legal counsel that all funds were used for law enforcement operations related to reducing criminal activity in areas with halfway houses or parole violator centers, or both.

(7) The commission shall report in writing to the legislative Law Enforcement and Criminal Justice Interim Committee annually regarding the funds allocated under this section, including the amounts and uses.

Amended by Chapter 280, 2014 General Session

51-9-501. Title.

This part is known as the "Transition for Repealed Navajo Trust Fund Act."

Enacted by Chapter 202, 2008 General Session

51-9-502. Definitions.

As used in this part:

(1) "Liability or obligation" includes only an action specifically approved by the majority of the repealed board of trustees in a meeting of the repealed board of trustees.

(2) "Related assets and liabilities" means the assets, liabilities, and obligations of the repealed Navajo Trust Fund as of June 30, 2008.

(3) "Repealed board of trustees" means the board of trustees appointed under Title 63, Chapter 88, Navajo Trust Fund, repealed under Title 63I, Chapter 1, Legislative Oversight and Sunset Act.

(4) "Repealed Dineh Committee" means the Dineh Committee established under Title 63, Chapter 88, Navajo Trust Fund, repealed under Title 63I, Chapter 1, Legislative Oversight and Sunset Act.

(5) "Repealed Navajo Trust Fund" means the Navajo Trust Fund established under Title 63, Chapter 88, Navajo Trust Fund, repealed under Title 63I, Chapter 1, Legislative Oversight and Sunset Act.

(6) "Repealed trust administrator" means the trust administrator appointed under Title 63, Chapter 88, Navajo Trust Fund, repealed under Title 63I, Chapter 1, Legislative Oversight and Sunset Act.

(7) "Utah Navajo royalties" means the revenues received by the state that represent the 37-1/2% of the net oil royalties from the Aneth Extension of the Navajo Indian Reservation required by P.L. 72-403, 47 Stat. 1418, and P.L. 90-306, 82 Stat. 121, to be paid to the state.

Enacted by Chapter 202, 2008 General Session

51-9-503. Purpose statement.

It is the purpose of this part to provide for a transitional process until congressional action designates a new recipient of the Utah Navajo royalties.

Enacted by Chapter 202, 2008 General Session

51-9-504. Utah Navajo royalties and related issues.

(1) (a) Notwithstanding Title 63, Chapter 88, Navajo Trust Fund, repealed July 1, 2008, and except as provided in Subsection (7), the following are subject to this Subsection (1):

- (i) the repealed board of trustees;
- (ii) the repealed trust administrator;
- (iii) an employee or agent of the repealed Navajo Trust Fund; or
- (iv) the repealed Dineh Committee.

(b) The repealed board of trustees may not:

(i) beginning on March 17, 2008, take an action that imposes or may impose a liability or obligation described in Subsection (1)(d) that is:

- (A) anticipated to be completed on or after January 1, 2010; or
- (B) equal to or greater than \$100,000; or

(ii) on or after May 5, 2008, take an action that imposes or may impose a liability or obligation described in Subsection (1)(d).

(c) On or after March 17, 2008, a person described in Subsections (1)(a)(ii) through (iv) may not take an action that imposes or may impose a liability or obligation described in Subsection (1)(d).

(d) Subsection (1)(b) applies to a liability or obligation on:

- (i) the repealed Navajo Trust Fund;
- (ii) the Navajo Revitalization Fund created under Title 35A, Chapter 8, Part 17,

Navajo Revitalization Fund Act;

- (iii) the state; or
- (iv) any of the following related to an entity described in this Subsection (1)(d):
 - (A) a department;
 - (B) a division;
 - (C) an office;
 - (D) a committee;
 - (E) a board;
 - (F) an officer;
 - (G) an employee; or
 - (H) a similar agency or individual.

(2) The Division of Finance shall:

(a) establish a fund by no later than July 1, 2008:

(i) to hold:

- (A) the money in the repealed Navajo Trust Fund as of June 30, 2008;
- (B) Utah Navajo royalties received by the state on or after July 1, 2008;

(C) revenues from investments made by the state treasurer of the money in the fund established under this Subsection (2)(a);

(D) money owed to the repealed Navajo Trust Fund, including money received by the repealed trust administrator or repealed Dineh Committee from an agreement executed by:

- (I) the repealed board of trustees;
- (II) the repealed trust administrator; or
- (III) the repealed Dineh Committee; and

(E) money related to litigation, including settlement of litigation related to Utah Navajo royalties; and

(ii) from which money may not be transferred or expended, except:

(A) as provided in Subsection (7); or

(B) as authorized by congressional action to designate a new recipient of the Utah Navajo royalties; and

(b) by no later than July 1, 2008, transfer to the fund created under Subsection (2)(a) in a manner consistent with this section the related assets and liabilities of the repealed Navajo Trust Fund, including the transfer of money in the repealed Navajo Trust Fund.

(3) The state treasurer shall invest money in the fund created in Subsection (2)(a) in accordance with Title 51, Chapter 7, State Money Management Act.

(4) (a) By no later than May 5, 2008, the repealed board of trustees shall:

(i) adopt a list of all related assets and liabilities of the repealed trust fund that are not satisfied by May 5, 2008, which may include assets and liabilities that are contingent in nature or amount;

(ii) adopt a list of all individuals who at the time of adoption meet the requirements of Subsection (7)(b); and

(iii) provide a copy of the lists described in Subsections (4)(a)(i) and (ii) to:

(A) the state auditor; and

(B) the Department of Administrative Services.

(b) The state auditor, in addition to completing its Fiscal Year 2007-2008 audit of the repealed Navajo Trust Fund, shall:

(i) verify the list of the related assets and liabilities of the repealed Navajo Trust Fund adopted by the repealed board of trustees under Subsection (4)(a) by no later than June 30, 2008; and

(ii) provide a written copy of the verification to the governor and the Legislature by no later than July 30, 2008.

(5) The governor shall ensure that the reporting requirements under P.L. 90-306, 82 Stat. 121, are met.

(6) The Department of Administrative Services, in cooperation with the Department of Human Resources, may assist employees of the repealed Navajo Trust Fund as of June 30, 2008, in accordance with Title 67, Chapter 19, Utah State Personnel Management Act.

(7) With the fund created under Subsection (2) and the fixed assets of the repealed Navajo Trust Fund, the Department of Administrative Services shall:

(a) subject to Subsection (8), fulfill the liabilities and obligations of the repealed Navajo Trust Fund as of June 30, 2008;

(b) provide financial assistance to an individual enrolled member of the Navajo Nation who:

- (i) resides in San Juan County;
- (ii) as of June 30, 2018, has received financial assistance under this Subsection (7)(b) for postsecondary education;
- (iii) beginning the later of June 30 or the day on which the individual first receives financial assistance under this Subsection (7)(b), is enrolled in postsecondary education in any state for the equivalent of at least two semesters each year; and
- (iv) meets the eligibility requirements adopted by the repealed board of trustees as of March 17, 2008, except that the Department of Administrative Services may increase the amount of financial assistance received by an individual under this Subsection (7)(b) when there are increases in tuition or fees charged at postsecondary institutions operating in the state;

(c) through the Division of Facilities Construction and Management, reasonably maintain the fixed assets of the repealed Navajo Trust Fund, to the extent that a lessee of a fixed asset is not required by a lease to maintain a fixed asset;

(d) through the Division of Facilities Construction and Management, take those steps necessary to secure the purchase:

(i) of the following that is owned by the repealed Navajo Trust Fund as of May 5, 2008:

- (A) the government service building; or
- (B) another fixed asset of the repealed Navajo Trust Fund, if the sale of the fixed asset is consistent with the obligations of the state with regard to the Utah Navajo royalties; and

(ii) (A) in an arms length manner; and
(B) so that fair market compensation is paid to the repealed Navajo Trust Fund;
and

(e) charge the fund established under Subsection (2)(a) for the expenses that are necessary and reasonable to comply with the requirements of this Subsection (7).

(8) To fulfill the liabilities and obligations of the repealed Navajo Trust Fund as of June 30, 2008, the Division of Finance may expend money from the fund:

(a) for a liability or obligation incurred before March 17, 2008, to the extent that the expenditure was expressly a liability or obligation of the repealed Navajo Trust Fund as of March 17, 2008; and

(b) on and after March 11, 2010, for a project approved under Subsection (1)(b)(i) by the repealed board of trustees, except that the Division of Finance may not expend money from the fund for a project approved under Subsection (1)(b)(i):

- (i) in excess of \$100,000 in the aggregate for the project; or
- (ii) to fulfill a liability or obligation related to the project if the expenditure would be on or after the earlier of:

(A) the day on which money from the fund is transferred as authorized by congressional action to designate a new recipient of the Utah Navajo royalties; or

(B) January 1, 2018.

(9) Unless expressly prohibited by this part, the state may take any action with regard to the assets held by the state under this part that is consistent with the obligations of the state related to the Utah Navajo royalties.

Amended by Chapter 71, 2014 General Session

51-9-601. Act of Congress accepted -- Funds to be apportioned.

(1) The state renews its acceptance of the apportionment of money received from forest reserves made by the Act of May 23, 1908, 16 U.S.C. Sec. 500 et seq., and all acts amendatory thereof and supplementary thereto, and renews its acceptance of the act upon the terms and conditions set forth in the act.

(2) The apportionment money provided by the act shall be used for the benefit of the public schools and public roads of the counties containing the forest reserves.

Amended by Chapter 8, 2009 General Session

51-9-602. Creation of fund -- County Road and School Fund from Forest Reserves.

There is established a fund known as the "County Road and School Fund from Forest Reserves," comprised of:

(1) money which shall come into the hands of the state treasurer from the United States under the Act of May 23, 1908, 16 U.S.C. Sec. 500 et seq., and all acts amendatory thereof and supplementary thereto; and

(2) money paid under the act described in Subsection (1) that:

(a) has come into the hands of the state treasurer; and

(b) (i) the state treasurer had not apportioned to counties as of February 24, 2009; or

(ii) were apportioned to a county by the state treasurer, but were returned by the county to the state treasurer on or before June 15, 2009.

Amended by Chapter 342, 2011 General Session

51-9-603. Apportionment by the county legislative body.

The state treasurer shall, within a reasonable time after receipt of the money:

(1) apportion money that the United States determines shall be allocated to each county for special projects for deposit in one or more of the following, as directed by the legislative body of the county:

(a) the county's general fund; or

(b) one or more special service districts, provided that each special service district receiving money:

(i) is established by the county under Title 17D, Chapter 1, Special Service District Act; and

(ii) has as part of its functions the purpose of:

(A) carrying out the Firewise Communities program;

(B) developing community wildfire protection plans; or

(C) performing emergency services on federal land such as search and rescue or firefighting; and

(2) apportion the remaining net amount of the money to each county that is entitled to receive funds as follows:

(a) 50% to the school districts of the county, according to the number of school children residing in each district that are over the age of six and under the age of 18; and

(b) 50% to the following, as directed by the county legislative body:

(i) the general fund of the county; or

(ii) one or more special service districts, provided that each special service district receiving money:

(A) is established by the county under Title 17D, Chapter 1, Special Service District Act; and

(B) has as one of its functions the purpose of constructing, improving, repairing, or maintaining public roads.

Amended by Chapter 4, 2009 Special Session 1

51-9-701. Title.

This part is known as the "Navajo Water Rights Negotiation Account Act."

Enacted by Chapter 276, 2012 General Session

51-9-702. Navajo Water Rights Negotiation Account.

(1) (a) There is created a restricted account within the General Fund known as the "Navajo Water Rights Negotiation Account."

(b) The restricted account shall consist of appropriations made by the Legislature.

(c) The Division of Finance shall:

(i) administer the account; and

(ii) deposit interest earned on the account into the General Fund.

(2) Subject to Subsection (3), the Legislature may appropriate money from the restricted account only to plan, design, and construct drinking water projects to serve populations located on the Navajo Nation reservation within the boundaries of Utah.

(3) Before appropriating money from the account for the purpose specified in Subsection (2), the Legislature shall ensure that the state of Utah has:

(a) a signed, enforceable agreement on Navajo water rights with the Navajo Nation and the United States government; and

(b) a signed, enforceable project repayment agreement with the United States Department of the Interior.

(4) Creation of the account and appropriations into the account do not:

(a) create a state obligation to provide funding for the planning, design, or construction of drinking water projects to serve populations located on the Navajo Nation reservation within the boundaries of the state; and

(b) constitute an acknowledgment or admission by the state of Utah of any legal liability or obligation.

Enacted by Chapter 276, 2012 General Session